STATE OF CALIFORNIA

DEPARTMENT OF PUBLIC WORKS

PUBLICATIONS OF THE

DIVISION OF WATER RESOURCES

BULLETIN No. 18-C

CALIFORNIA IRRIGATION DISTRICT LAWS

1933 Revision

Published in Cooperation with the

Legislative Counsel Bureau

and the

California Districts Securities Commission

5134

TABLE OF CONTENTS

FOREWORD — PAGE

Brief discussion of various California conservation acts 5

CHAPTER I

GENERAL PROVISIONS—

Use of water appropriated for distribution subject to regulation 9
Use of water resources—Riparian rights restricted to beneficial use 9
Legislature authorized to provide for supervision of districts 10
Eminent domain 11
Irrigation districts authorized to acquire stock of water corporations 13
Protection of canals and works 14
Preventing obstruction of, or injuries to highways 15
Construction of public works 17
By day's labor or force account 17
Security for claims against contractor 18
Presentation of false claims 21
Wages and hours of labor 22
Appointment of deputies 27
Payment of premiums on official bonds 27
Plans and specifications for distribution system for city to be prepared by public agency 28
Liability of public agencies and the officers and employees thereof 29

CHAPTER II

CALIFORNIA DISTRICTS SECURITIES COMMISSION ACT AND RELATED LAWS—

California Districts Securities Commission Act 31
Related laws 39
Bonds exempt from taxation 39
Payment of bonds 39
Default of irrigation district in payment of indebtedness 39
Deposit of funds and security therefor 42
Bond validating acts 45
Issuance of duplicate bonds 48
Cancellation of bonds and interest coupons 50
Financing waterworks systems by sale of revenue bonds to the United States 52

CHAPTER III

CALIFORNIA IRRIGATION DISTRICT ACT AND RELATED LAWS—

California Irrigation District Act 60
Organization procedure 61
Election on organization 68
Duties and powers of board of directors 71
Water regulations 78
Elections and organization 79
Title to property 89
Issuance of bonds 89
Assessment for completion of work 100
Duties of assessor 101
Levy and collection of assessments 105
Sale for delinquent assessments 111
Redemption of property sold for delinquent assessments 114

PAGE

CALIFORNIA IRRIGATION DISTRICT ACT—(Continued)
Redemption of bonds and payment of interest ... 118
Construction of works ... 119
Directors and other officers ... 123
Special assessments ... 124
Incurring indebtedness ... 125
Use of water ... 128
Exemption of district property from taxation ... 128
Funds ... 129
Actions to determine validity of bonds and levy of assessments ... 129
Violation of duty by officer ... 131
Relief from district obligations ... 132
Exclusion of lands ... 134
Inclusion of lands ... 138
Reduction of bonded indebtedness ... 144
Lease of water ... 145
Destruction of unsold bonds ... 146
General provisions ... 147
Laws related to the California Irrigation District Act ... 149
Change of district name ... 149
Improvement districts within irrigation districts ... 149
Improvement district validating acts ... 156
Consolidation of districts ... 159
Districts over 500,000 acres ... 162
General validating acts ... 164
Dissolution of districts ... 166
Voluntary dissolution ... 166
Involuntary dissolution ... 171
Escheat of funds of dissolved district ... 173
Cooperative agreement with districts in other states ... 174
Cooperation with Federal government for construction, operation, or maintenance of works ... 175
Cooperation under Federal Twenty-Year Extension Act ... 180
Union of districts for production of materials ... 181
Assessment of public lands ... 181
Redemption of property sold for delinquent assessments ... 182
Settlement of water right controversies to tax-deeded lands ... 183
Cancellation of taxes ... 184
Purchase or use of lands deeded to the State for taxes ... 185
Drainage by irrigation districts ... 191
Development of electric power ... 192
Rights of way for district power lines ... 193

INDEX TO SUBJECTS ... 195

PUBLICATIONS OF THE DIVISION OF WATER RESOURCES ... 205

FOREWORD

This bulletin contains in complete form, as amended to 1933, the California Districts Securities Commission Act and the California Irrigation District Act. There are also assembled certain general provisions of the constitution and statutes relating to the operation of irrigation districts.

The extent to which the irrigation district act has been utilized in the irrigation development of the State has made it desirable to assemble these laws in convenient published form, and the number and importance of the changes made, especially in the irrigation district act, at each session of the Legislature has made it essential to revise these publications following each legislative session.

While by far the greatest number and largest area of irrigation projects have been formed under the irrigation district act, the wide variation of conditions in different areas of the State desiring to develop water for irrigation and/or domestic use has resulted in the enactment of a similarly wide variety of acts for such purposes. For areas requiring extensive financing, carefully phrased acts providing the procedure for such financing are available; for areas of low cost requiring simplicity of operation, less formal types of organization may be used. There follows a brief discussion of various California conservation acts:

California Water Storage District Act

Petitions for organization under this act are made to the State Engineer. Petitions for the exclusion from or inclusion of lands in the district after it has been organized are also made to the State Engineer. Otherwise the difference from the irrigation district act is mainly in the methods of voting and assessments. Voting is based on a property qualification, and the voter is not required to be a resident of the district. Assessments for costs are based on benefits derived. This act is adapted to areas having large holdings, or nonresident landowners, or where benefits derived are not proportional to land values. There are two districts operating under this act: Buena Vista and Tulare Lake Basin water storage districts in Kern and Kings counties. (Stats. 1921, p. 1727.)

California Water Conservation District Act

The California Water Conservation District Act was drafted primarily for consolidating the various interests which obtain water from the Kings River for the purpose of creating storage on that stream, and incidentally for accomplishing an adjustment of the complicated water-right situation along the stream. Under the act a conservation district composed of three or more units, all or any of which are irrigation, water storage, reclamation, or drainage districts, or any other

political subdivisions of the State organized to promote irrigation, reclamation, drainage, or flood control, may be organized in a single district, in the manner and for the purposes provided in the act. The Kings River Water Conservation District, consisting of twelve units containing about 800,000 acres, filed a petition for organization under this act in 1924. The petition is still pending waiting for the completion of various matters by the units. (Stats. 1923, p. 978.)

Water District Act

This act provides for the organization, financing, and management of water districts, the original sponsors of the act having in mind the organization of districts mainly embracing entered government land in Chuckawalla Valley and Palo Verde Mesa in Riverside County. The law as amended is of general application. Organization is initiated by petition to the county board of supervisors. Qualified voters are holders of title or evidence of title to land within the district. No bonds can be issued except through the approval of the Districts Securities Commission. Five districts have been organized under this act. (Stats. 1913, p. 815.)

County Water District Act

This act provides for the organization of districts on petition to the county supervisors. The portion of the county proposed to be included must have a population of at least 300. An organization election is held and voting is done by the general electorate. A board of directors is elected to manage the district. Bonds may be issued. Costs may be covered by water rates, but taxes must be levied to cover costs if the income from such rates is inadequate. Some thirty or more districts are operating under this act, in most of which the securing of a domestic water supply was a large factor in influencing their organization. (Stats. 1913, p. 1049.)

County Waterworks District Act

This act was intended to handle the distribution of water in unincorporated areas adjacent to Los Angeles. The main use has been for domestic purposes, although water for irrigation is supplied by certain districts. Organization requires a petition to the county supervisors who fix the final boundaries and call an election on organization and on issuance of bonds. The general electorate is entitled to vote. Titles to district properties rest in the county until the area becomes a part of a municipality, and the county may fix water rates and levy taxes. (Stats. 1913, p. 785.)

Municipal Improvement District Act

These districts are formed within municipalities to provide for various public improvements including water service. Some of such districts supply water for irrigation. The legislative body of the municipality handles the organization procedure and operation of the district. (Stats. 1915, p. 99.)

Water Conservation Act of 1927

This act provides for organizations to spread or otherwise conserve the water supply of the area included. The organization petition is presented to the county supervisors, and an organization election is held with each land owner entitled to one vote for each acre included. Funds are secured by taxes levied by the county. District directors elected by the voters manage the district. Taxes may not exceed 1.5 mills per dollar on the assessed value of lands and improvements unless authorized by a district election. There are no provisions for issuing bonds. The districts may also take necessary actions to protect their water rights and supplies. This act has been utilized by districts in Ventura and Tulare counties. (Stats. 1927, p. 160.)

Conservancy Act of California

This act provides for the spreading of flood waters for storage and other purposes. No districts have been formed under the act for irrigation purposes. (Stats. 1919, p. 559.)

Reclamation District Laws

These provisions have been extensively used for the organization of areas desiring to protect their lands from overflow. The law, however, permits a reclamation district to handle the irrigation of the reclaimed land. Reclamation districts are organized by proceedings before the county supervisors. There is no administrative control exercised by the State over such districts other than that of the State Reclamation Board and by the Districts Securities Commission in case of certain districts located within the Sacramento and San Joaquin drainage district. (Political Code, sections 3446-3493.)

Conservation Act of 1929

This act provides for storage, spreading, and otherwise conserving the water supply of the area included within the district. Organization is initiated by petition to the county board of supervisors, and the act provides for voting by the general electorate within the district. Assessments are levied on assessed values as determined by the last equalized assessment rolls of the county. Bonds may be issued when submitted at an election and approved by a two-thirds vote. One district, the Santa Clara County conservation district, is operating under this act. (Stats. 1929, p. 307.)

Palo Verde Irrigation District Act

This is a special act passed in 1923 and amended in 1925, 1927, and 1933. In most of its features this act follows the procedure of the California Irrigation District Act and was passed for the organization of the Palo Verde district, enabling it to finance certain construction work and to take over the Palo Verde Joint Levee District and the Palo Verde Mutual Water Company. (Stats. 1923, p. 1067.)

County Power Pumping District Act

Organization is initiated by a petition to the county board of supervisors by not less than one-half of the landowners in the proposed district, and may be completed if approved by a two-thirds majority of the voters of the district. The purpose of organization is to construct and equip wells for supplying water to the lands of the district. The property within the district is subject to *ad valorem* assessments for district purposes. County boards of supervisors are authorized to issue bonds, at no time to exceed $10 per acre, including outstanding district bonds, on the approval of two-thirds of the electors of the district. No districts have been formed under this act. (Stats. 1915, p. 1483.)

District Organization Act

This is a new act (Chapter 879) passed in 1933, and provides for the organization, operation, consolidation and dissolution of any tax or assessment district in the nature of a public agency or corporation of special or limited functions and powers. It makes available a uniform procedure for the organization and operation of such districts, but does not repeal or change any existing law, nor affect any district now existing. Its provisions become operative as to any given type of district only to the extent provided for by the statute which authorizes that particular type of district, and the procedure authorized by the principal act may provide for a variation from the details set out in the District Organization Act. (Stats. 1933, p. 2280.)

CHAPTER I

GENERAL PROVISIONS

The following laws are general in character and are assembled for ready reference in connection with the California Irrigation District Act and other acts which are included in this bulletin.

1. USE OF WATER APPROPRIATED FOR DISTRIBUTION SUBJECT TO REGULATION

California Constitution, Article XIV, Sec. 1

The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law * * *.

This section does not impress the distribution of all water appropriated with a public use.

Nichaus Bros. Co. vs. *Contra Costa Water Co.*, 159 Cal. 305, 113 Pac. 375, 36 L. R. A. (N. S.) 1045.

But applies to cases where water is appropriated generally for sale, rental or distribution and not to sales to particular persons by ordinary contracts of purchase and sale.

Thayer vs. *California Dev. Co.*, 164 Cal. 117, 128 Pac. 21;
Franciscioni vs. *Soledad, etc. Co.*, 170 Cal. 221, 149 Pac. 161;
Allen vs. *Railroad Com.*, 179 Cal. 68, 175 Pac. 466, 8 A. L. R. 249; appeal dismissed;
Railroad Com. vs. *Allen*, 249 U. S. 601, 63 L. Ed. 797, 39 Sup. Ct. 259;
Water Works vs. *San Francisco*, 82 Cal. 286, 22 Pac. 910, 1046;
Williamson vs. *Railroad Com.*, 193 Cal. 22, 193 Pac. 802;
Danley vs. *Merced Irr. Dist.*, 66 Cal. App. 97, 226 Pac. 854.

2. USE OF WATER RESOURCES—RIPARIAN RIGHTS RESTRICTED TO BENEFICIAL USE

California Constitution, Article XIV, Sec. 3

It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or watercourse in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or watercourse attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are,

or may be made adaptable, in view of such reasonable and beneficial uses; *provided, however*, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which his land is riparian under reasonable methods of diversion and use, or of depriving any appropriator of water to which he is lawfully entitled. This section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this section contained. (New section adopted November 6, 1928.)

Rights of riparian owners not absolute but subject to reasonable regulation.

Miller & Lux vs. *San Joaquin Light and Power Co.*, 120 Cal. App. 589;
Chow vs. *Santa Barbara*, 85 Cal. Dec. 397;
Colorado vs. *Pacific Gas and Electric Company*, 86 Cal. Dec. 116.

3. LEGISLATURE AUTHORIZED TO PROVIDE FOR SUPERVISION OF DISTRICTS

California Constitution, Article XI, Sec. 13

The Legislature shall not delegate to any special commission, private corporation, company, association or individual any power to make, control, appropriate, supervise or in any way interfere with any county, city, town or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments or perform any municipal function whatever, except that the Legislature shall have power to provide for the supervision, regulation and conduct, in such manner as it may determine, of the affairs of irrigation districts, reclamation districts or drainage districts, organized or existing under any law of this State. (Amendment adopted November 3, 1914.)

Act permitting irrigation district to lease canals and works does not violate this section.

Byington vs. *Sacramento, etc. Co.*, 170 Cal. 124, 148 Pac. 791.

Wright Act is not a violation of this section.

Fallbrook Irr. Dist. vs. *Bradley*, 164 U. S. 112, 41 L. Ed. 369, 17 S. Ct. 56.

Laws relating to irrigation districts must have a uniform operation.

Mordecai vs. *Board of Sup'rs.* 183 Cal. 434, 192 Pac. 40.

To convey to mortgagee statutory powers of trustees of irrigation district is a violation of this section.

Merchants, etc. Bank vs. *Escondido Irr. Dist.*, 144 Cal. 329, 77 Pac. 937.

Irrigation district is not a municipal corporation but a public corporation for municipal purposes.

Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060.

The 1914 amendment to this section gave to the Legislature an enlarged discretion touching the regulation and conduct of irrigation districts.

Wores vs. *Imperial Irr. Dist.*, 193 Cal. 609, 227 Pac. 181.

Legislature has plenary power over districts organized for reclamation purposes.

Barber vs. *Galloway*, 195 Cal. 1, 231 Pac. 34;
Palo Verde Irr. Dist vs. *Seeley*, 198 Cal. 477, 245 Pac. 1092;
Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
San Diego vs. *La Mesa, etc. Irr. Dist.*, 63 C. A. D. 777, 292 Pac. 1082;
Morrison vs. *Smith Bros.*, 80 Cal. Dec. 571, 293 Pac. 53;
Peterson vs. *Board of Sup'rs*, 65 Cal. App. 670, 225 Pac. 28;
Pasadena vs. *Chamberlain*, 204 Cal. 653, 269 Pac. 630;
Henshaw vs. *Foster*, 176 Cal. 507, 169 Pac. 82;
Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
Argyle Dredging Co. vs. *Chambers*, 40 Cal. App. 332, 181 Pac. 84;
Recl. Dist. vs. *Superior Court*, 171 Cal. 672, 154 Pac. 845;
Merchants Bank vs. *Escondido Irr. Dist.*, 144 Cal. 329, 77 Pac. 937;
San Leandro vs. *Railroad Com.*, 183 Cal. 229, 191 Pac. 1;
Tarpey vs. *McClure*, 190 Cal. 593, 213 Pac. 983.

4. EMINENT DOMAIN

California Constitution, Article I, Sec. 14

Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way shall be appropriated to the use of any corporation, except a municipal corporation or a county or the State, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; provided, that in an action in eminent domain brought by the State, or a county, or a municipal corporation, or a drainage, irrigation, levee, or reclamation district, the aforesaid State or political subdivision thereof or district may take immediate possession and use of any right of way required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposits as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier. (Amendment adopted November 6, 1928.)

See citations to act following.

An act regarding irrigation and declaring the same to be a public use.

(Approved May 1, 1911; Stats. 1911, p. 1407.)

Use of Water a Public Use

SECTION 1. Irrigation in the State of California is hereby declared to be a public necessity and a public use, and the power of eminent domain may be exercised on behalf of such public use in accordance with the provisions of title VII, part III of the Code of Civil Procedure of the State of California; provided, that any person, firm or corporation, exercising the power of eminent domain and in control of water appropriated for sale, rental or distribution, shall not, by this act, be relieved from the duty of furnishing water to irrigate the lands over which any right of way is obtained by condemnation for irrigation purposes as required by an act entitled, "An act to regulate and control the sale, rental and distribution of appropriated water in this State,

other than in any city, city and county, or town therein and to secure the rights of way for the conveyance of such water to the places of use," approved March 12, 1885, or any other law now in force in this State.

Railroad commission has no power to hear matter involving the acquisition of property held in private ownership but jurisdiction is vested in superior court.

Chase Lumber Co. vs. *Railroad Com.*, 80 Cal. Dec. 324, 192 Pac. 124.

Decision of State as to necessity of taking is conclusive on Federal court.

Rindge Co. vs. *Los Angeles*, 262 U. S. 700, 67 L. ed. 1186, 43 S. Ct. 689.

Formation of an irrigation district is a public purpose for which private property may be taken.

Turlock Irr. Dist. vs. *Williams*, 76 Cal. 360, 18 Pac. 379;
Fallbrook Irr. Dist. vs. *Bradley*, 164 U. S. 112, 41 L. ed. 369, 17 S. Ct. 56;
Tormey vs. *Anderson-Cottonwood Irr. Dist.*, 53 Cal. App. 559, 200 Pac. 814.

Waiver of right to injunction.

Conaway vs. *Yolo Water, etc. Co.*, 204 Cal. 125, 226 Pac. 944;
Collier vs. *Merced Irr. Dist.*, 82 Cal. Dec. 351, 2 P. (2d) 790.

Where several parcels are sought to be condemned belonging to different owners, the security must consist of a separate and distinct deposit for each.

Weiler vs. *Superior Court*, 188 Cal. 729, 207 Pac. 247.

This section does not authorize an action against an irrigation, reclamation or drainage district for negligence of its officers or agents.

Western Assurance Co. vs. *Drainage Dist.*, 72 Cal. App. 68, 237 Pac. 59.

Procedure for ascertainment of compensation is not part of right guaranteed by constitution.

Los Angeles vs. *Oliver*, 192 Cal. App. 299, 283 Pac. 298.

Unauthorized taking may be ratified.

Newberry vs. *Evans*, 97 Cal. App. 120, 275 Pac. 465.

Taking possession prior to judgment.

Felton Water Co. vs. *Superior Court*, 82 Cal. App. 382, 256 Pac. 255.

Use and possession prior to judgment.

Marblehead L. Co. vs. *Superior Court*, 60 Cal. App. 644, 213 Pac. 718.

An irrigation district may not take possession before suit is filed.

Stone vs. *Cordua Irr. Dist.*, 72 Cal. App. 331, 237 Pac. 554.

This section does not violate the 14th amendment to the federal constitution.

Marblehead L. Co. vs. *Superior Court*, 60 Cal. App. 644, 213 Pac. 718;
Stone vs. *Cordua Irr. Dist.*, 72 Cal. App. 331, 237 Pac. 544.

Appropriation for private use of taker is not a public use.

Gravelly Ford Canal vs. *Pope and Talbot L. Co.*, 36 Cal. App. 556, 178 Pac. 150; see also 192 Cal. 4, 218 Pac. 405;
Nickey vs. *Stearns*, 126 Cal. 150, 58 Pac. 459.

Irrigation district is agency of State and use to which water is put is a public use.

Sutro Heights L. Co. vs. *Merced Irr. Dist.*, 81 Cal. Dec. 346, 296 Pac. 1088. See also as to effect of consent to taking.

Part of water from single source may be devoted to public and part retained for private use.

McIntyre vs. *Consolidated Water Co.*, 205 Cal. 231, 270 Pac. 444.

Decision of State as to what is a public use is entitled to great weight in federal courts.

Rindge Co. vs. *Los Angeles*, 262 U. S. 700, 67 L. ed. 1186, 43 S. Ct. 689;
Nickey vs. *Stearns*, 126 Cal. 150, 58 Pac. 459; see Sec. 17, Irr. Dist. Act, post; also State Constitution, Art. XIV, sec. 1, ante.

Certain Acts Not Affected

SEC. 2. This act shall not repeal or modify an act entitled, "An act to regulate and control the sale, rental and distribution of appropriated water in this State, other than in any city, city and county, or town

therein, and to secure the rights of way for the conveyance of such water to the place of use," approved March 12, 1885, and other acts supplemental thereto and amendatory thereof, nor shall the same be construed to alter or change the law of the State of California as to the duty of any person, firm or corporation in charge of a public use to furnish water.

Effective Date

SEC. 3. This act shall be in force from and after its passage.

5. IRRIGATION DISTRICTS AUTHORIZED TO ACQUIRE STOCK OF WATER CORPORATIONS

California Constitution, Article IV, Sec. 31

The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to section 22 of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; * * *

And provided, still further, that notwithstanding the restrictions contained in this constitution, the treasurer of any city, county, or city and county shall have power and it shall be his duty to make such temporary transfers from the funds in his custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in his custody and are paid out solely through his office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision

shall not exceed 85 per cent of the taxes accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the taxes accruing to such political subdivision before any other obligation of such political subdivision is met from such taxes. (Amendment adopted November 8, 1932.)

State may purchase drainage district warrants.

Argyle Dredging Co. vs. Chambers, 40 Cal. App. 332, 151 Pac. 84; *Sacramento Dr. Dist.* vs. *Riley*, 199 Cal. 668, 251 Pac. 207.

Legislature may appropriate money for benefit of reclamation districts.

Rec. Board vs. *Chambers*, 46 Cal. App. 476, 189 Pac. 479.

Legislature can not direct payment of irrigation district officer's salary out of county funds.

Knox vs. *Board of Sup.*, 58 Cal. 59.
Los Angeles G. & E. Corp. vs. *Los Angeles*, 188 Cal. 307, 205 Pac. 125.

Legislature may authorize existing irrigation districts to acquire stock in water corporation and not thereby impair obligations of contracts.

Lindsay-Strathmore Irrigation District vs. *Watchumna Co.*, 111 Cal. App. 688.

6. PROTECTION OF CANALS AND WORKS

Penal Code, Sec. 592

Water Ditches, Etc., Penalty for Trespass or Interference With

Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume or reservoir used for the purpose of holding or conveying water for manufacturing, agricultural, mining, irrigating or generation of power, or domestic uses, or who shall without like authority, raise, lower or otherwise disturb any gate or other apparatus thereof, used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed, into any such canal, ditch, flume or reservoir, any rubbish, filth or obstruction to the free flow of the water is guilty of a misdemeanor. (Amended, Stats. 1899, p. 146.)

Penal Code, Sec. 627

Canal Banks and Rights of Way: Penalty for Trespass by Hunters

Every person who, for the purpose of hunting, pursuing, taking, killing or destroying any animal or bird, trespasses upon the canal banks or rights of way of any irrigation district or upon any other lands where signs are displayed not less than three to the mile along all exterior boundaries and at all roads and trails entering such lands forbidding such trespassing, without the written permission of the owner of such lands, or his agent, or the person in lawful possession thereof, or who maliciously tears down, mutilates or destroys any sign, signboard, or other notice forbidding hunting on such lands, is guilty of a misdemeanor.

Nothing in this section shall be construed as making the entering or use of any road or trail on such lands, canal banks or rights of way unlawful when entered and used for the purpose of communicating with the owner of such lands, or his agent, or the person in lawful possession of such lands. The provisions of this section shall not apply to

any person employed as a hunter by the State or by the United States to hunt and destroy predatory animals, or birds, when acting in the course of his employment.

The terms "canal" and "rights of way" as used herein do not include the terms "lakes" or "reservoirs." (Amended, Stats. 1931, p. 321.)

Penal Code, Sec. 607

Bridges, Dams, Levees, Etc., Penalty for Destroying or Injuring

Every person who wilfully and maliciously cuts, breaks, injures or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp, overflow, tide or marsh land, or to store or conduct water for mining, manufacturing, reclamation, or argicultural purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to the same, or either of them, or wilfully or maliciously makes, or causes to be made, any aperture or plows up the bottom or sides in such dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure, with intent to injure or destroy the same; or draws up, cuts or injures any piles fixed in the ground for the purpose of securing any sea bank, or sea walls, or any dock, quay or jetty, lock, or sea wall; or who, between the first day of October and the fifteenth day of April of each year, plows up or loosens the soil in the bed or on the side of any natural watercourse, reclamation or drainage ditch, with an intent to destroy the same without removing such soil within twenty-four hours from such watercourse, reclamation or drainage ditch, or who, between the fifteenth day of April and the first day of October of each year, shall plow up or loosen the soil in the bed or on the sides of such natural watercourse, reclamation or drainage ditch, with an intent to destroy the same and shall not remove therefrom the soil so plowed up or loosened before the first day of October next thereafter, is guilty of a misdemeanor, and upon conviction, punishable by a fine of not less than one hundred dollars and not exceeding one thousand dollars, or by imprisonment in the county jail, not exceeding two years, or by both; provided that nothing in this section shall be construed so as to in any manner prohibit any person from digging or removing soil from any such watercourse, reclamation or drainage ditch, for the purpose of mining. (Amended, Stats. 1931, p. 1530.)

7. PREVENTING OBSTRUCTION OF, OR INJURIES TO HIGHWAYS

Political Code, Sec. 2737

Injury to Highway by Drainage or Seepage Water

Whoever obstructs or injures any highway, or diverts any watercourse thereon, or drains water from his land upon any highway, to the injury thereof, by means of ditches or dams, is liable to a penalty of ten dollars for each day such obstruction or injury remains, and must be punished as provided in section 588 of the Penal Code. Any person, persons, or corporation who shall be storing or distributing

water for any purpose, and shall permit the water to overflow or saturate, by seepage, any highway, to the injury thereof, shall, upon notification of the road commissioner of the district where such overflow or seepage occurs, repair the damages occasioned by such overflow or seepage; and should such repair not be made within a reasonable time by such person, persons, or corporation, said road commissioner shall make such repairs, and recover the expense thereof from such person, persons, or corporation, in an action at law. All persons excavating irrigation, mining, or draining ditches across public highways shall be reqired to bridge said ditches at such crossings, and upon neglect to do so, the road commissioner for that road district shall construct the same and recover the cost of constructing said bridge or bridges of such persons by action, as provided in this section; provided, that the supervisors of any county may construct and maintain bridges over any and all ditches used exclusively for irrigation purposes, and which cross public highways in the county over which they have authority, and may, with the consent of the owners of such ditches, declare any and all such bridges to be public property, and maintain and keep the same in repair at the expense of such county. And whoever wilfully injures any public bridge is hereby declared to be guilty of a misdemeanor, and is also liable for actual damages for such injury, to be recovered by the county in a civil action; provided, further, that every person who knowingly allows the carcass of any dead animal (which animal belonged to him at the time of its death) to be put or to remain within one hundred feet of any street, alley, public highway, or road in common use, and every person who puts the carcass of any dead animal within one hundred feet of any street, alley, highway, or road in common use, or who shall deposit on any highway any refuse or waste tin, sheet-iron, or broken glass, is guilty of a misdemeanor. (Amended, Stats. 1897, p. 217.)

Western State Gas & Electric Co. vs. *Bayside Lumber Co.*, 182 Cal. 140, 187 Pac. 735.

Civil Code, Sec. 551

Water Conduits Not to Obstruct Highways

No canal, flume, or other appliance for the conducting of water must be so laid, constructed, or maintained as to obstruct any public highway; and every person or corporation owning, maintaining, operating or using any such canal, flume, or appliance, crossing or running along any public highway, must construct, maintain, and keep in repair such bridges across the same as may be necessary to the safe and convenient use of such highway by the public; and on failure so to do, the board of supervisors of the county, after seven days' notice in writing to said person or corporation, may construct or repair such bridge or bridges, and recover of such person or corporation the amount of expenditure made in so doing; provided, however, that bridges heretofore or hereafter constructed in a permanent manner and approved by the county engineer, or the county board of supervisors, by irrigation districts, or other quasi municipal corporations, or public corporations, or private corporations or persons, over irrigation ditches or drainage ditches, must, after such construction and

acceptance as aforesaid, be maintained and kept in repair by the county in which said bridges are situated and the cost of such maintenance and repair must be borne by such county. (Amended, Stats. 1927, p. 589.)

South Yuba Water Company vs. *Auburn*, 16 Cal. App. 775, 118 Pac. 101; *City of Madera* vs. *Madera Canal & Irr. Co.*, 159 Cal. 749, 115 Pac. 936.

8. CONSTRUCTION OF PUBLIC WORKS BY DAY'S LABOR OR FORCE ACCOUNT

An act relating to the doing of public work by day's labor or force account, except emergency and maintenance work and work costing less than ten thousand dollars; requiring the State Highway Engineer, State Engineer, the State Architect, county engineers, county surveyors, city and county engineers, county highway engineers, road commissioners, city engineers, commissioners of public works, superintendents of streets, harbor engineers, flood control engineers, and the engineers of any reclamation, irrigation or other districts, political subdivisions or agencies of the State directing, supervising or superintending such work, or in charge of the engineering for or in connection therewith, to keep the costs, prepare and file plans, specifications and estimates of cost, and, upon completion, prepare and file certificates of cost thereof; and providing for the keeping of such plans, specifications and certificates as public records.

(Approved June 21, 1923, Stats. 1923, p. 1053; amended Stats. 1925, p. 292.)

Plans and Records for Public Work Performed by Day's Labor or Force Account

SECTION 1. It shall be the duty of the State Highway Engineer, the State Engineer, the State Architect, and of every county engineer, county surveyor, city and county engineer, county highway engineer, road commissioner, city engineer, Commissioner of Public Works, superintendent of streets, harbor engineer, flood control engineer, the engineer of any board or commission of the State, the engineer of any board or commission of any city or city and county, and the engineer of any reclamation, irrigation or other district, political subdivision or agency of the State directing, supervising or superintending the construction, or in charge of engineering work for or in connection with the construction of any bridge, road, street, highway, ditch, canal, dam, tunnel, excavation, building or structure within the State by day's labor or force account, except maintenance work, work occasioned by emergency and work costing less than five thousand dollars, to keep an accurate account of the cost of such work; to prepare and file in his office, prior to the commencement of the work, full, complete and accurate plans and specifications, and an estimate of the cost thereof, except where other and adequate provision is made by law requiring the preparation and filing of such plans, specifications and estimates of cost by some other officer, or in some other office; and within sixty days from the completion of any such work, to prepare and file in the office of the county clerk of the county in which the work is performed, or if any such reclamation, irrigation or other district maintains an

office, then in the office of his own such district instead of the office of the county clerk, a certificate in writing verified by him in the same manner as complaints in civil actions, setting forth the estimate of cost, names of bidders with prices bid, if bids there be, changes in adopted or approved plans and specifications, that the work performed has or has not been done in accordance with such plans and specifications, a list of any publicly-owned equipment used in the work, and an itemized statement of the actual cost of all labor, materials, rentals, repairs, compensation and other insurance, transportation of labor, equipment and materials, engineering or architectural services including the services of public employees in connection with such work, and any and all cost entering into the work performed, including a reasonable amount for depreciation of publicly-owned equipment used in the work and the costs of repairs thereon while so used. (Amended, Stats. 1925, p. 292.)

Public Inspection of Records

SEC. 2. Such plans, specifications and certificates shall be open to inspection and examination as a public record.

Penalty

SEC. 3. Every such public officer or public employee mentioned in section 1 of this act who wilfully violates any of the provisions of this act is guilty of a misdemeanor. (Amended, Stats. 1925, p. 293.)

SECURITY FOR CLAIMS AGAINST CONTRACTOR

An act to secure the payment of claims of persons employed by contractors upon public works, and the claims of persons who furnish materials, supplies, teams, implements or machinery used or consumed by such contractors in the performance of such works, and prescribing the duties of certain public officers with respect thereto.

(Approved May 10, 1919, Stats. 1919, p. 487; amended Stats. 1925, p. 538; Stats. 1927, p. 282.)

Bond of Contractor on Public Work

SECTION 1. Every contractor, person, company, or corporation, to whom is awarded a contract involving an expenditure in excess of one hundred dollars for the improvement, erection or construction of any building, road, bridge or other structure, excavating, or other mechanical work for this State, or for any political subdivision or agency of the State shall, before entering upon the performance of such work, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a good and sufficient bond, to be approved by such contracting body, officer or board, in a sum not less than one-half of the total amount payable by the terms of the contract; provided, that whenever the total amount, payable by the terms of any such contract shall be not less than five million dollars or more than ten million dollars, a bond in a sum not less than one-fourth of the amount payable under the terms of the contract may be accepted and if the

amount payable under any such contract exceeds the sum of ten million dollars, a bond in the sum of two million five hundred thousand dollars shall be sufficient; such bond shall be executed by either two or more good and sufficient sureties or by corporate surety as provided by law, in an amount not less than the sum specified in the bond, and must provide that if the contractor, person, company, or corporation, or his or its subcontractors, fail to pay for any materials, provisions, provender or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, that the surety or sureties will pay for the same, in an amount not exceeding the sum specified in the bond, and also, in case suit is brought upon such bond, a reasonable attorney's fee, to be fixed by the court. Such bond must by its terms inure to the benefit of any and all persons, companies and corporations entitled to file claims under this act so as to give a right of action to them or their assigns in any suit brought upon said bond. Unless such bond is filed as herein provided, no claim in favor of the contractor arising under such contract shall be audited, allowed, or paid by any public officer of this State, or of any political subdivision or State agency, but persons who have in good faith, performed work upon such contract, or supplied materials for the execution thereof, shall, upon giving the notice prescribed in section 2 hereof, be entitled to receive payment of their respective claims in the manner provided by sections 1184, 1184a, 1184b, and 1184c of the Code of Civil Procedure. (Amended, Stats. 1927, p. 283.)

Continental Nat. Bank vs. *Republic Cas. Co.*, 202 Cal. 586, 262 Pac. 300;
Cooley vs. *Freeman*, 204 Cal. 59, 266 Pac. 545;
Diamond Match Co. vs. *Aetna Cas. etc. Co.*, 60 Cal. App. 425, 213 Pac. 56;
Granite Rock Co. vs. *Freeman*, 93 Cal. App. 507, 269 Pac. 668;
Sunset L. Co. vs. *Smith*, 95 Cal. App. 307, 272 Pac. 1068;
Lake vs. *Southern Surety Co.*, 104 Cal. App. 727, 286 Pac. 490;
Peoples Nat'l Bank vs. *Southern S. Co.*, 105 Cal. App. 731, 288 Pac. 827;
County of Sutter vs. *Superior Court*, 188 Cal. 292, 204 Pac. 849;
Burr vs. *Gardella*, 53 Cal. App. 377, 200 Pac. 493;
McMorrey vs. *Superior Court*, 54 Cal. App. 76, 201 Pac. 797;
Evans vs. *Shackleford*, 64 Cal. App. 750, 222 Pac. 846.

Filing of Claims by Materialmen, Laborers, and Others

SEC. 2. Any materialman, person, company or corporation furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed, or any person, company or corporation renting or hiring teams or implements or machinery for or contributing to said work to be done, or any person who performed work or labor upon the same, or any person who supplies both work and materials, and whose claim has not been paid by the contractor, company, or corporation, to whom the contract has been awarded, or by the subcontractors of said contractor, company, or corporation, may at any time prior to the expiration of the period within which claims of lien must be filed for record as prescribed by section 1187 of the Code of Civil Procedure file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, or with the controller, auditor, or other public disbursing officer whose duty it is to make payments under the provisions of such contract a verified statement of such claims, together with a

statement that the same have not been paid. It shall be lawful for the State or any public board, commission, or officer thereof, or any political subdivision thereof, within ten days after the completion of any contract or structure, or work of improvement, provided for in this act, or within ten days after there has been a cessation from labor thereon for a period of thirty days, to file for record in the office of the county recorder of the county or counties where the property is situated, a notice setting forth the date when the same was completed or on which cessation from labor occurred, together with the name of the State or such public board, commission or officer thereof, or such political subdivision thereof and a description of the property or public work or structure sufficient for identification and the name of the contractor or contractors, the names of the sureties, if any, which notice shall be verified by some officer of the State or some member of such board, commission or officer thereof, or of such political subdivision thereof, and in case such notice be not so filed, the failure to so file shall have the same effect as is provided in section 1187 of the Code of Civil Procedure with reference to the "owner." Actions against the State, public board, commission, or officer thereof, or the political subdivision of the State, or the disbursing officer whose duty it is to make payments under the provisions of the contract for the public improvement in question, brought by any claimant who has filed claim under this act, or his assign, shall be governed by the provisions of sections 1184, 1184a, 1184b, and 1184c of the Code of Civil Procedure and the verified notice provided for in the said sections shall be equivalent for all purposes to the verified claim provided for herein.

No assignment by the contractor of the whole or any part of the money due him or to be due him under the contract or for "extras" in connection therewith, whether made before a verified claim is filed as provided for herein or after said claim is filed, shall be held to take priority over claims filed under this section and such assignment shall have no binding force in so far as the rights of the claimants who file claims thereunder, or their assigns, are concerned; provided, that nothing in this section shall be construed to prohibit the payment of any money to the contractor or his assigns, so long as no verified claim is on file before the disbursing officer shall have actually surrendered possession of the warrant, checks, bonds, or money or the payment to said contractor or his assigns of any money due him or his assigns over and above the total amount of the claims filed at that time plus such interest and court costs as might be reasonably anticipated in connection with said claims.

Suit against the surety or sureties on the bond of the contractor required under section 1 hereof, may be brought by any claimant, or his assign, at any time after the claimant has ceased to perform labor or furnish material or both and until the expiration of six months after the period in which verified claims may be filed as provided herein. The filing of a verified claim shall not be a condition precedent to the maintenance of such action against the surety or sureties on the bond and an action on such bond may be maintained separately from and without the filing of an action against the board, commission, officer or other body by whom such contract was awarded. And upon the trial of any such action, the court shall award to the

prevailing party a reasonable attorney's fee, to be taxed as costs, and to be included in the judgment therein rendered.

If the contractor, subcontractor or other person against whom any claim is filed as provided in this act shall dispute the correctness or validity of any claim so filed it shall be lawful for the controller, auditor or other public disbursing officer whose duty it is to make payments under the provisions of such contract or the commissioner, managers, trustees, officers, board of supervisors, board of trustees, common council or other body by whom the contract for the improvement was awarded, in its or his discretion, to permit the contractor to whom said contract was awarded to deliver to such board, commission or officer a bond executed by some corporation authorized to issue surety bonds in the State of California, in a penal sum equal to one and one-fourth times the amount of said claim, which said bond shall guarantee the payment of any sum which said claimant may recover on said claim together with his costs of suit in said action, if he shall recover therein, and upon the filing of said bond by and with the consent of such board, commission or officer, then such board, commission or officer shall not withhold any moneys from said contractor on account of said claim. The sureties upon said bond shall be jointly and severally liable to said claimant with the sureties upon the bond given in accordance with section 1 of this act. (Amended, Stats. 1925, p. 539.)

Granite Rock Co. vs. *Freeman*, 93 Cal. App. 507, 269 Pac. 668;
Sunset L. Co. vs. *Smith*, 95 Cal. App. 307, 272 Pac. 1068;
County of Sutter vs. *Superior Court*, 188 Cal. 292, 204 Pac. 849;
Diamond Match Company vs. *Aetna Cas. etc. Co.*, 60 Cal. App. 425, 213 Pac. 56;
Evans vs. *Shackelford*, 64 Cal. App. 750.

Repeal of Chapter 140, Statutes of 1897

SEC. 3. The act entitled "An act to secure the payment of the claims of materialmen, mechanics, or laborers, employed by contractors upon State, municipal, or other public work," approved March 27, 1897, and all acts amendatory thereof are hereby repealed; saving to all persons, however, all rights which have accrued under the provisions of said statutes, or any thereof.

PRESENTATION OF FALSE CLAIMS

Penal Code, Sec. 72

Every person who, with intent to defraud, presents for allowance or for payment to any State board or officer, or to any county, town, city, district, ward or village board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is guilty of a felony. (Amended, Stats. 1927, p. 790.)

Flood control district is a State board and officers thereof are State officers within the purview of this section.

People vs. *Richards*, 86 Cal. App. 87, 260 Pac. 582.

Immaterial that warrant upon which claim was based was irregularly issued.

People vs. *Carolan*, 71 Cal. 195, 12 Pac. 52;
People vs. *Howard*, 135 Cal. 266, 67 Pac. 113;
People vs. *Maloney*, 145 Cal. 104, 78 Pac. 354;
Metropolitan Life Ins. Co. vs. *Ralph*, 181 Cal. 557, 191 Pac. 1005;
People vs. *Lanterman*, 9 Cal. App. 676, 100 Pac. 720;
People vs. *Butler*, 35 Cal. App. 357, 169 Pac. 918;
People vs. *Ralph*, 67 Cal. App. 270, 227 Pac. 642.

WAGES AND HOURS OF LABOR

An act to provide for the payment of not less than the general prevailing rate of wages on public works, and not less than the general prevailing rate of wages for legal holiday and overtime work on public works, providing for the ascertainment of such general prevailing rate by the public body awarding the contract and its insertion in the contract and call for bids for the contract, providing for the keeping of records of the wages paid all workers engaged in public work and the inspection of such records by the proper public officials, providing for a forfeiture for each calendar day, or portion thereof, any worker is paid less than the said rate and for a stipulation to this effect in the contract, and providing other penalties for violation of the provisions thereof.

(Approved May 25, 1931, Stats. 1931, p. 910.)

Not Less Than Prevailing Wage Rate to Be Paid

SECTION 1. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work, shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State of California, or by or on behalf of any county, city and county, city, town, district or other political subdivision of the said State, engaged in the construction of public works, exclusive of maintenance work. Laborers, workmen and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works with the State of California, or any officer or public body thereof, or in the execution of any contract or contracts for public works with any county, city and county, city, town, township, district or other political subdivision of said State, or any officer or public body thereof, shall be deemed to be employed upon public works.

Ascertainment of Prevailing Wage Rate to Be Specified in Call for Bids; Forfeiture as Penalty for Violation

SEC. 2. The public body awarding any contract for public work on behalf of the State of California, or on behalf of any county, city and county, city, town, township, district or other political subdivision thereof, or otherwise undertaking any public works, shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the call for bids for said contract, and in the contract itself, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the general prevailing rate for legal holiday and overtime work, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to all laborers, workmen and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the State or political subdivision, district or municipality on whose behalf the contract is made or awarded, ten dollars for each laborer, work-

man or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its officers and agents, to take cognizance of complaints of all violations of the provisions of this act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this act; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Statistics and Law Enforcement of the State Department of Industrial Relations or by said awarding body; and provided, further, that in all cases of contracts with assessment or improvement districts where full payment is made in the form of a single warrant, or other evidence of full payment, after completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld, retained or forfeited under the provisions of this section, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

Record of Wages and Workmen

SEC. 3. The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents, and to the Chief of the Division of Labor Statistics and Law Enforcement of the State Department of Industrial Relations, his deputies and agents.

Terms and Scope of Act Defined

SEC. 4. Construction work done for irrigation, utility, reclamation, improvement and other districts, or other public agency or agencies, public officer or body, as well as street, sewer and other improvement work done under the direction and supervision or by the authority of any officer or public body of the State, or of any political subdivision, district or municipality thereof, whether such political subdivision, district or municipalty thereof operates under a freeholder's charter heretofore or hereafter approved or not, also any construction or repair work done under contract, and paid for in whole

or in part out of public funds, other than work done directly by any public utility company pursuant to order of the Railroad Commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this act. The term "locality in which the work is performed" shall be held to mean the city and county, county or counties in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the State, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, township, district or other political subdivisions on whose behalf the contract is awarded in all other cases. The term "general prevailing rate of per diem wages" shall be the rate determined upon as such rate by the public body awarding the contract, or authorizing the work, whose decision in the matter shall be final. Nothing in this act, however, shall be construed to prohibit the payment to any laborer, workman or mechanic employed on any public work as aforesaid of more than the said general prevailing rate of wages, nor shall anything in this act be construed to permit any overtime work in violation of section 653c of the Penal Code.

Penalty

SEC. 5. Any officer, agent or representative of the State of California, or of any political subdivision, district or municipality thereof, who wilfully shall violate, or omit to comply with, any of the provisions of this act, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him, in connection with the said public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

Saving Clause

SEC. 6. If any section, sentence, clause or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

The act entitled "An act fixing the minimum rate of compensation for labor on public work," approved March 9, 1897, Stats. 1897, p. 90, was repealed by Stats. 1931, p. 909.

Penal Code, Sec. 653c

Hours of Labor on Public Works

The time of service of any laborer, workman, or mechanic employed upon any of the public works of the State of California, or of any political subdivision or district thereof, or upon work done for

or by the authority of said State, or any county, city and county, city, town, township, district or any other political subdivision thereof, whether said work is done by contract or otherwise, is hereby limited and restricted to eight hours during any one calendar day; and it shall be unlawful for any officer or agent of said State, or of any political subdivision or district thereof, or for any contractor or subcontractor doing work under contract upon any public works aforesaid, who employs, or who directs or controls the work of any laborer, workman, or mechanic, employed as herein aforesaid, to require or permit such laborer, workman, or mechanic, to labor more than eight hours during any one calendar day, except in cases of extraordinary emergency, caused by fire, flood, or danger to life or property or except to work upon public military or naval defenses or works in time of war; provided, however, that within thirty days after any employee is permitted to work over eight hours in one calendar day due to such an extraordinary emergency, the contractor doing the work, or his duly authorized agent, shall file with the officer, board or commission awarding the contract a report, verified by his oath, setting forth the nature of the said emergency, which report shall contain the name of the said worker and the hours worked by him on the said day, and failure to file the said report within the said time shall be prima facie evidence that no extraordinary emergency existed. Such contractor and each subcontractor shall also keep an accurate record showing the names and actual hours worked of all workers employed by him, in connection with the said public work, which record shall be open at all reasonable hours to the inspection of the officer, board or commission awarding the contract, or their deputies or agents, and to the chief of the Division of Labor Statistics and Law Enforcement of the Department of Industrial Relations, his deputies or agents.

Any officer or agent of the State of California, or of any political subdivision or district thereof, making or awarding, as such officer or agent, any contract, the execution of which involves or may involve the employment of any laborer, workman, or mechanic upon any of the public works, or upon any work herein mentioned, shall cause to be inserted therein a stipulation which shall provide that the contractor to whom said contract is awarded shall forfeit as a penalty, to the State or political subdivision or district in whose behalf the contract is made and awarded, ten dollars for each laborer, workman, or mechanic employed, in the execution of said contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work herein mentioned, for each calendar day during which such laborer, workman or mechanic is required or permitted to labor more than eight hours in violation of the provisions of this section, and it shall be the duty of such officer or agent to take cognizance of all violations of the provisions of this section committed in the course of the execution of said contract, and to report the same to the representative of the State or political subdivision or district, party to the contract, authorized to pay to the contractor moneys becoming due to him under said contract, and said representative, when making payments of moneys thus due, shall withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation, and the terms of this act; provided, however, that no sum

shall be so withheld, retained or forfeited except from the final payment, without a full investigation by either the Division of Labor Statistics and Law Enforcement of the State Department of Industrial Relations or by said awarding body; and provided, further, that in all cases of contracts with assessment or improvement districts where the full payment is made in the form of a single warrant, or other evidence of full payment, after the completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld or retained under the provisions of this section, and said awarding body shall then release the final warrant or payment in full. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

Any officer, agent or representative of the State of California, or of any political subdivision or district thereof, who shall violate, or omit to comply with, any of the provisions of this section, and any contractor or subcontractor, or agent or representative thereof, doing public work as aforesaid, who shall neglect to keep an accurate record of the names and actual hours worked by the workers employed by him, in connection with the said public work, or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this section, shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine not exceeding five hundred dollars, or by imprisonment for not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type, as well as street, sewer or other improvement work done under the direction and supervision of the State, or of any political subdivision or district thereof, whether such political subdivision or district operates under a freeholders' charter heretofore or hereafter approved or not, shall be held to come under the provisions of this section; provided, however, that nothing in this section shall apply to the operation of the irrigation or drainage system of any irrigation or reclamation district. (Amended, Stats. 1931, p. 2430.)

This section does not apply to city firemen.
Danielsen vs. *City of Bakersfield*, 184 Cal. 262, 193 Pac. 212.

Penal Code, Sec. 653d

Retention of Wages

Every person, whether as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes or receives, or conspires with another to take or receive, for his own use or the use of any other person acting with him any part or portion of the wages paid to any laborer, workman or mechanic, including a piece worker and working subcontractor, in connection with services rendered upon any public work within this State, whether such work is done directly for the

State, or public body or officer thereof, or county, city and county, city, town, township, district or other political subdivision of the said State, or for any contractor or subcontractor engaged in such public work for such an awarding or public body or officer, is guilty of a felony. (Amended, Stats. 1933, p. 606.)

9. APPOINTMENT OF DEPUTIES

Political Code, Sec. 4024

Every county, township or district officer, except a supervisor or judicial officer, and every marshal of municipal court or clerk of municipal court, may appoint as many deputies as may be necessary for the prompt and faithful discharge of the duties of his office. Such appointment must be made in writing, and filed in the office of the county clerk, and a copy thereof, in the case of such deputies receiving compensation for their official duties, filed in the office of the county auditor. Until such appointment is so made and filed, and the copy thereof, when herein required, is so filed, and until such deputy shall have taken the oath of office, no one shall be or act as such deputy. Upon the revocation of the appointment of any such deputy, such revocation must be made and filed in the same manner as is herein provided for the making and filing of his appointment. (Amended, Stats. 1931, p. 1889.)

10. PAYMENT OF PREMIUMS ON OFFICIAL BONDS

An act to provide for the payment by the State or counties or school districts or other special districts, or cities, or cities and counties, of the premium or charge on official bonds when given by surety companies.

(Approved March 25, 1903, Stats. 1903, p. 476; amended, Stats. 1931, p. 1391.)

SECTION 1. The premium or charge for bonds given by surety companies for State officials, county officials, township officials, school district officials, other special district officials, city officials, or city and county officials, or the deputies, clerks, assistants or subordinate officers of said officials shall be paid by the State, county, school district, other special district, city, or city and county, respectively; provided that no premium or charge shall exceed one-half of one per cent per annum on the amount of such bond; and provided, further, that this act shall not apply to notaries public; and provided, further, that in cases of township officials the premium shall be paid by the county in which the township is situate and provided, further, that the payment of premiums for the official bonds of deputies, clerks, assistants or subordinate officers of county officers shall not be a county charge unless the amount fixed for such bond has been approved by the board of supervisors.

County of San Luis Obispo vs. *Smith*, 21 Cal. App. 55, 130 Pac. 858; *County of San Luis Obispo* vs. *Murphy*, 162 Cal. 588, 123 Pac. 898.

* * * * * * *

11. PLANS AND SPECIFICATIONS FOR DISTRIBUTION SYSTEM FOR CITY TO BE PREPARED BY PUBLIC AGENCY

*An act to provide for work in and upon public streets, avenues, lanes, alleys, courts, places, sidewalks, highways, roads, and other public property and rights of way in whole or in part including property over which possession and right of use has been obtained under the provisions of section 14 of Article I of the Constitution within municipalities, * * *.*

(Approved April 7, 1911, Stats. 1911, p. 730; amended, Stats. 1931, p. 1939.)

Sec. 4½. In every case where the work proposed to be done includes the laying of conduits, pipes, hydrants, or any appliance for the supplying or distributing of a domestic water supply, and the distribution of such domestic water supply in the territory in which the improvement is contemplated is under the management and control of a municipal water district, a municipal utility district, a public utility district, a metropolitan water district, or any puble agency other than the city or municipality ordering any work done or improvement to be made which is authorized by this act, the said conduits, pipes, hydrants, or other appurtenances for supplying or distributing such domestic water supply shall be installed under the following proceedings, which must be taken prior to the adoption of the resolution of intention, to wit:

Before requiring the plans, specifications and estimates provided for in section 8 of this act the city council shall pass a resolution requesting the public agency having charge of the supplying and distribution of the domestic water supply in the district about to be improved to furnish to the city council plans and specifications for adequate and appropriate conduits, pipes, hydrants and other appurtenances necessary for that purpose. It shall thereupon become the duty of such public agency to furnish said plans and specifications so required, and said plans and specifications shall be submitted to the city council for its approval. The city council may adopt said plans and specifications, but may not modify or change the same except with the consent of the public agency furnishing said plans and specifications, and if no agreement can be reached the said conduits, pipes and other appurtenances for supplying said water shall be omitted from the contemplated improvement. If the said plans and specifications are adopted by the city council it shall be the duty of the city engineer to incorporate said plans and specifications in the plans and specifications furnished by him to the city council, as required by section 8 of this act, and the said plans and specifications shall thereupon be deemed incorporated in the plans and specifications for doing the work, and the public agency which supplies said plans and specifications may at all times maintain an inspector over the work and improvement to see that the plans and specifications which it has furnished have been complied with, and the cost of such inspection shall form a part of the incidental expenses of the work and be incorporated in the assessment as a part thereof.

After the work has been completed and accepted, the said pipes, conduits and other appliances for supplying or distributing water so installed shall be and become a part of the system of the said public agency so supplying the water, and shall at all times thereafter be used, operated, maintained, and managed by it as a part of such system. (Added, Stats. 1931, p. 1940.)

12. LIABILITY OF PUBLIC AGENCIES AND THE OFFICERS AND EMPLOYEES THEREOF

Civil Code, Sec. 1714½

Liability of Irrigation Districts for Operation of Motor Vehicles

Hereafter the State, and every county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State owning any motor vehicle shall be responsible to every person who sustains any damage by reason of death, or injury to person or property as the result of the negligent operation of any said motor vehicle by an officer, agent, or employee or as the result of the negligent operation of any other motor vehicle by any officer, agent or employee when acting within the scope of his office, agency or employment; and such person may sue the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State, as the case may be, in any court of competent jurisdiction in this State in the manner directed by law. In every case where a recovery is had under the provisions of this section against the State, any county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State, then the State, or the county or city and county, municipal corporation, the State Compensation Insurance fund, irrigation district, school district, district established by law and political subdivision of the State shall be subrogated to all the rights of the person injured, against the officer, agent or employee, as the case may be, and may recover from such officer, agent or employee, the total amount of any judgment and costs recovered against the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State in such case, together with costs therein.

And the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State may insure their liability in any insurance company authorized to transact the business of such insurance in the State of California, and the premium for such insurance shall be a proper charge against the respective general fund of the State, county, city and county, municipal corporation, the State Compensation Insurance Fund, irrigation district, school district, district established by law and political subdivision of the State, as the case may be. (Amended, Stats. 1931, p. 168.)

Workmen's Compensation, Insurance and Safety Act of 1913, Sec. 46

Liability Insurance

The State and each county, city and county, city, school district or other public corporation or quasi public corporation within the State not including, however, any public utility corporation, may insure against its liability for compensation with the State Compensation Insurance Fund and not with any other insurance carrier unless such

fund shall refuse to accept the risk when the application for insurance is made, and the premium therefor shall be a proper charge against the general fund of each such political subdivision of the State. (Amended, Stats. 1931, p. 200.)

Civil Code, Sec. 3342.

Immunity of Officers and Employees Under Unconstitutional Statutes

A State, county, district, or municipal officer, agent, or employee, or any officer, agent, or employee of any political subdivision, acting in good faith and without malice under the apparent authority of any law of this State, whether enacted by the Legislature or by the people of the State through initiative action, which law subsequently is judicially declared to be unconstitutional as in conflict with the Constitution of this State or of the United States, shall not be held civilly liable in any action in which he would not have been liable if such law had not been declared unconstitutional, nor shall he be liable to any greater extent than he would have been if such law had not been declared unconstitutional.[1] (Amended, Stats. 1933, p. 2707.)

---

[1] Chapter 1053, Statutes of 1933, which amended section 3342 of the Civil Code, also contained the following:

SEC. 2. The provisions of this act shall supersede the provisions of section 3342 of the Civil Code contained in Chapter 248 of the Statutes of 1933. It is hereby declared to be the intent of the Legislature that said provisions contained in said chapter shall be without effect as to any portion thereof which conflicts with this act.

SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution, and shall therefore go into effect immediately. The following is a statement of the facts constituting such necessity:

There are at the present time many irrigation, reclamation and other districts operating in this State under general statutes the constitutionality of which has never been determined by the higher State courts. For this reason the officers of such districts are hesitant about performing certain of their duties provided by said statutes, thereby jeopardizing the best interests of the people of such districts. The provisions of this act will relieve district officers, agents and employees of any greater liability which would result if the statute under which they act is subsequently declared unconstitutional.

CHAPTER II

CALIFORNIA DISTRICT SECURITIES COMMISSION ACT AND RELATED LAWS

Preliminary Statement

The California Irrigation District Act provides that before the board of directors of an irrigation district may call an election for the issuance of bonds to provide funds for the purpose of constructing or acquiring works or other property, it must submit the plans and estimates of cost of such proposed works or property, and the amount of bonds it desires to issue, to the California Districts Securities Commission for a report on the feasibility of the project. The activities of the Districts Securities Commission in connection with the issuance, sale and refunding of irrigation district bonds are covered by sections 30 to 32e of the Irrigation District Act and by the provisions of the California Districts Securities Commission Act itself.

Section 3480b of the Political Code, as amended in 1933, provides for approval by the Districts Securities Commission of the issuance of reclamation district refunding bonds. The Water Storage Act, California Water Conservation District Act, the Water District Act and the Water Conservation District Act of 1929 all provide for the submission of their bond issues to the Districts Securities Commission, for certification as legal investments for savings banks, trust funds, public funds, etc.

1. CALIFORNIA DISTRICTS SECURITIES COMMISSION ACT

An act creating the California Districts Securities Commission, providing for its appointment, and defining its duties and powers, relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized, providing that certain districts may be declared insolvent, and providing for the administration of insolvent districts, making an appropriation, to carry out the purposes of the act, and repealing an act entitled "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized," approved June 13, 1913, and as amended.

(Approved June 19, 1931, Stats. 1931, p. 2263; amended Stats. 1933, p. 355.)

California Districts Securities Commission Created—Personnel—Compensation

SECTION 1. There is hereby created a commission to be known as and designated the California Districts Securities Commission, which commission shall consist of five members as follows: the Attorney General, the State Engineer, the Superintendent of Banks, and two other members to be appointed by the Governor, each of whom at the time of his appointment shall be one who has had at least five years actual experience in the affairs of an irrigation district in this State as an officer or employee. The terms of office of the two members appointed by the Governor shall be be four years from the date of their appointment, and until their successors are appointed. Each member of the board other than the Attorney General, the State Engineer and the Superintendent of Banks shall be entitled to receive as compensation as such member, ten dollars for each day while on official business of the commission and all members shall be entitled to receive his actual necessary expenses while on such official business.

"District" Means "Irrigation District"

SEC. 2. The words "district" or "districts" wherever used herein for all purposes hereof, shall be deemed to mean irrigation districts organized under the laws of this State.

Resolution Declaring Bonds Available for Certification

SEC. 3. Whenever the governing board of any district organized and existing under and pursuant to the laws of the State of California shall by resolution declare that it deems it desirable that any contemplated or outstanding bonds of said district, including any of its bonds authorized but not sold, shall be made available for the purposes provided for in section 9 of this act, the said board shall thereupon file a certified copy of such resolution with the commission herein provided for.

Report of Commission—Limitation Upon Approval of Bonds for Certification

SEC. 4. Such commission, upon receipt of a certified copy of such resolution, shall, without delay, make or cause to be made an investigation of the affairs of the district and report thereon in writing. If no bonds of the district shall have theretofore been certified as provided in this act or under the provisions of "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized." Approved June 13, 1913, or acts amendatory thereof or supplementary thereto, such report shall be made upon each and every detail that may in the opinion of the commission have any bearing upon the success or failure of the project about to be undertaken by the district, and every fact which will aid the commission in determining the feasibility and economic soundness of such project. If bonds of the district shall have

theretofore been so certified then such report shall be upon the following points:

(a) The supply of water available for the project and the right of the district to so much water as may be needed.

(b) The nature of the soil as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage.

(c) The feasibility of the district's irrigation system and of the specific project for which the bonds under consideration are desired or have been used, whether such system and project be constructed, projected or partially completed.

In either case the commission shall estimate the reasonable value of the water, water rights, canals, reservoirs, reservoir sites and irrigation and power works and other property owned by the district or to be acquired or constructed with the proceeds of the bonds proposed to be issued by said district and the reasonable value of lands included within the boundaries of the district.

No bond issue of any district shall be approved for certification as provided in this act which together with any other outstanding bonds of such district including bonds authorized but not sold exceeds sixty per centum of the aggregate value of the water, water rights, canals, reservoirs, reservoir sites, irrigation and power works and other property owned by the district or to be acquired or constructed with the proceeds of the bonds proposed to be issued by said district, and the reasonable value of the lands within the boundary of the district.

Report Filed With Controller—Duties of Controller

SEC. 5. The written report of the investigation herein provided for shall be filed in the office of the State Controller, and a copy of said report shall be forwarded by the commission to the secretary of the district for which the investigation shall have been made, and if said commission shall have found, as set out in said report, that the project is economically sound and feasible, the bonds of such district, as described and enumerated in said report filed with the State Controller, shall be certified by the State Controller, as hereinafter provided for. If the commission shall be notified by the board of any district whose project has been found in such report to be feasible, that the district has issued bonds, and the commission shall find that said bonds are for any project or projects approved in such report, the commission shall prepare and file with the State Controller a supplementary report giving the numbers, date or dates of issue and denominations of said bonds, which shall then be entitled to certification by the State Controller as hereinafter provided for. Subsequent issues of bonds may be made available for the purposes specified in this act upon like proceedings by said district, but, after any of the bonds of a district have been enumerated and described as entitled to certification by the State Controller as herein provided for, it shall be unlawful for that district to issue bonds that will not be entitled to such certification. It is hereby made the duty of the State Controller to provide for filing and preserving the reports mentioned in this section and, also, to make, keep and pre-

serve a record of the bonds certified by him in accordance with the provisions of section 8 of this act, including the date of certification, the legal title of the district, the number of each bond, its par value, the date of its issue and that of its maturity.

Supervision of Expenditures from Certified Bond Proceeds by Commission—Inspections by State Engineer

SEC. 6. Whenever the bonds of any district have been certified as provided in this act, no expenditures shall be made from the proceeds of such bonds, nor shall any liability to be met from such proceeds be incurred, until there shall have been filed with and approved by said commission such a schedule of proposed expenditures of such proceeds as may be necessary to set forth to the satisfaction of said commission the plan proposed for carrying out the purposes for which said bonds were authorized, or such of said purposes as the district may, at the time of filing such schedule, desire to proceed with; and no expenditures from the proceeds of said bonds shall be made for any purpose not specified in such approved schedule or for any approved purpose in excess of the amount allowed therefor in such schedule without the consent of said commission; nor shall any expense of any kind be incurred in excess of money actually provided by levy of assessment or otherwise except as otherwise provided by law. During the progress of any work to be paid for from the proceeds of any bond issue certified as in this act provided, the State Engineer on behalf of the commission herein authorized, shall make from time to time such inspection of the work as may be necessary to enable the said engineer to know that the plans approved by the commission are being carried out without material modification unless such modification has been approved by said State Engineer.

Plan on which bond issue is based may be changed with consent of the commission.

El Dorado Irr. Dist. vs. *Brown*, 216 Cal. 269.

Works Constructed Over Period of Years—Approval of Periodical Bond Sales

SEC. 7. Whenever the survey, examination, drawings and plans of a district, and the estimate of cost based thereon, shall provide that the works necessary for a completed project shall be constructed progressively over a period of years in accordance with a plan or schedule adopted by resolution of the board of the district, the bonds so voted and certified, or any portion of them, shall only be sold after prior written approval of the commission.

Certification by Controller—Form of Certificate

SEC. 8. Whenever any bond of a district organized and existing as aforesaid, including any bond authorized in any such district but not sold, which shall be eligible to certification by the State Controller under section 5 of this act, shall be presented to the State Controller, he shall cause to be attached thereto a certificate in substantially the following form:

Sacramento, Cal. _____ (insert date) 1, _____, Controller of the State of California, do hereby certify that the within bond, No. _____

of issue No. _____ of the _____ district, issued _____ (insert date), is, in accordance with an act of the Legislature of California approved _____, a legal investment for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, the State school funds and any funds which may be invested in county, municipal or school district bonds, and it may be deposited as security for the performance of any act whenever the bonds of any county, city, city and county, or school district may be so deposited, it being entitled to such privileges by virtue of an examination by the California Districts Securities Commission of the State of California in pursuance of said act. The within bond may also, according to the Constitution of the State of California, be used as security for the deposit of public money in banks in said State.

Controller of State of California

In case of a change in the Constitution or any of the laws of this State relating to the bonds of a district, or any difference therein the State Controller shall, if necessary, modify the above certificate so that it shall conform to the facts.

A facsimile of the Controller's signature, printed or otherwise, impressed upon said certificate shall be a sufficient signing thereof; provided, that the imprint of the Controller's seal thereon shall appear upon both the certificate and the bond over and through the printed signature.

Certified Bonds Are Legal Investments

SEC. 9. All bonds certified in accordance with the terms of this act shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies and for the State school funds and whenever any money or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school district, or municipalities in the State of California, such money or funds may be invested in the said bonds of such districts, and whenever bonds of cities, cities and counties, counties, school districts or municipalities may by any law now or hereafter enacted be used as security for the performance of any act, bonds of districts under the limitations in this act provided may be so used. This act is intended to be and shall be considered the latest enactment upon the matters herein contained, and any and all acts in conflict with the provisions hereof are hereby repealed.

Powers of Commission—Annual Reports

SEC. 10. The commission shall have power to examine the books and records of any district. It shall also prescribe a form of annual reports of districts, and a copy of each report shall be filed with the secretary of the district and a copy in the office of the commission.

Payment of Defaulted Obligations, Special Provisions For

SEC. 11. Whenever any district has levied the annual assessment required by the California Irrigation District Act or any acts amenda-

tory thereof or supplemental thereto and when the money derived from said assessment, together with any other revenue allocated to payment of bond interest and principal, is insufficient to meet the bond interest or principal when due and said district defaults on its bond principal or interest, or both to the extent of not less than twenty per cent (20%) of the amount due, said defaulting district shall be subject to this section and shall be under the control and direction of the commission to the extent herein provided. Thereafter it shall continue subject to this section and to such control and direction during the effective period of this section unless and until the amount raised by its annual assessment as hereinafter provided, together with other revenue derived from any source and allocated to bond service or other outstanding obligations, shall sooner be sufficient to meet and pay off all matured and uncanceled or unrefunded obligations of such district, bonded or otherwise, in which event it shall cease to be subject to this section and such control and direction shall terminate so long as said district does not again default as aforesaid. Upon receipt of written notice from any such district or any creditor thereof, the California Districts Securities Commission shall make such an investigation of the affairs of the district at the expense of the district as it may deem proper and for which funds are available in order to inform itself as to the financial affairs of the district and its lands, and to enable it to carry out the provisions of this section intelligently.

The board of directors of any such defaulting district, in levying the annual assessment of the district, may, notwithstanding section 39 of the California Irrigation District Act or any other provision of law governing such district, levy only for such total amount as in their judgment by a finding of fact, approved by the Districts Securities Commission it will be reasonably possible for the lands in said district, taken as a whole to pay without exceeding a delinquency of fifteen per cent. In determining the amount it is possible for the lands to pay, at the time of each annual assessment, the board of directors shall consider the productivity of lands in the district, crops growing and to be grown during the year, market conditions as well as they can be forecast, the cost of producing and marketing crops, and obligations of the land respecting taxes and public liens. Out of the money derived from such annual assessment the board of directors of the district may set aside such sum as, in the judgment of said board, and approved by the commission, may be necessary, in addition to other revenue allocable to that purpose, for the operation and maintenance of said district and its works for the ensuing year. The balance of said money derived from such annual assessment shall be prorated to bond interest, bond principal and to other outstanding obligations of the district in the proportion that the total amount due on each of said items shall bear to the said balance.

This section shall remain in effect only until the first day of November, 1935, unless sooner repealed. The Legislature expressly declares that this section is intended to be applicable to all bonds, obligations and assessments of districts which have defaulted to the extent hereinbefore set forth, and the Legislature expressly declares that it applies to all bonds now or hereafter issued and outstanding, including bonds issued before this law was enacted. Nothing in this section contained,

however, shall be deemed to extinguish or cancel any obligation due from any district, and whenever the annual assessment, levied as hereinbefore provided, leaves matured bond principal or interest, or other matured obligations, unpaid, said unpaid balance shall continue as a district obligation until paid or refunded in accordance with law.[1] (Repealed and added, Stats. 1933, p. 355.)

[1] Chapter 60 of the Statutes of 1933, which repealed and added section 11, also contained the following:

SEC. 2. The Legislature hereby declares that a public emergency and social problem of grave character now exists which requires the foregoing enactment of section 11 under the exercise of the police power of the State and in order to conserve the public welfare.

The following is a statement of facts constituting the emergency:

Due to the existing agricultural depression, many districts in the State have been unable to raise sufficient revenue to meet the annual obligations of their bonded indebtedness notwithstanding that they have levied the annual assessment in all respects as provided by section 39 of the California Irrigation District Act and notwithstanding that they have included an estimated delinquency of fifteen per cent as required by section 60 of said act. The situation is rapidly getting worse, both as to amounts of money in default and number of districts involved. Assessments and their delinquencies have proved uncollectible and the lands remain, subject to such delinquencies, unredeemed. Under present conditions, land deeded to districts after the period of redemption has expired, is in most instances unmarketable, nor can it be made to produce any substantial revenue. As a result of the foregoing, the burden of each succeeding annual assessment is falling upon a progressively lessening body of lands which in turn is forced to default in greater and greater quantities with the result that unless such process of pyramiding delinquencies is checked at once all lands in defaulting districts will soon be deeded to said districts for nonpayment of assessments and it will be impossible for said districts to resell the same. No appreciable sum can, under such conditions, be collected to meet district bonds or other obligations and the fiscal machinery devised for their payment will break down. There will necessarily follow an utter collapse of such districts and their obligations representing a substantial part of the wealth and productivity of the State. The property within such district will be left unoccupied and unproductive and there will be a complete destruction of values in the cities and other territory within, or tributary to, such districts and in the bonds of the districts themselves.

The Legislature hereby declares that the welfare of the State, the solvency of its banking institutions and the interests of the property owners and bondholders alike, require that the foregoing process of wholesale forced liquidation be stopped immediately, and for such temporary period as will permit ordinary economic processes to rehabilitate themselves and enable districts and bondholders to work out refinancing plans now under consideration before all values within the districts have been destroyed.

The provisions of section 11 as it read in 1931 apply to insolvent districts.
Mulcahy vs. *Baldwin*, 216 Cal. 517.

Commission May Negotiate With Bondholders for Compromise

SEC. 12. Upon the written request of the board of directors of any district, either before or after default in the payment of interest on its bonds, or any of the principal thereof, the commission may act for the district in negotiating with the holders of bonds or other evidences of indebtedness of the district, for the purpose of compromising or adjusting such indebtedness.

Employees of Commission

SEC. 13. The commission shall establish an office and shall select one of their number as chairman, and shall appoint an executive secretary, and shall from time to time appoint such other employees as they may deem necessary to carry out the purposes of this act. The compensation of all employees shall be fixed by the commission with the approval of the Department of Finance.

Rules, Regulations and Meetings of Commission

SEC. 14. The commission shall adopt such rules and regulations for the conduct of its affairs as it may deem proper, but which shall not be in conflict with any of the provisions of this act, or any other act of the Legislature, and in such rules shall fix the time for regular meetings of the commission, which regular meetings shall be held at the office of the commission.

Commission Succeeds to Jurisdiction of Bond Certification Commission

SEC. 15. The California District Securities Commission herein provided for shall succeed to and is hereby vested with all the duties, powers, purposes, responsibilities and jurisdiction of the California Bond Certification Commission, being the commission authorized by law to approve bonds of irrigation districts for certification, and also designated as the State Irrigation District Bond Commission, and whenever by the provisions of any statute or law now in force or that may hereafter be enacted, a duty or jurisdiction is imposed or authority conferred upon said California Bond Certification Commission, such duty, jurisdiction and authority are hereby imposed upon and transferred to the said California Districts Securities Commission with the same force and effect as though the title of said California Districts Securities Commission had been specifically set forth and named therein in lieu of the name of said California Bond Certification Commission.

Investigation and Report—Contribution of Funds

SEC. 16. Any district requesting the commission to make any investigation or report authorized by this act shall contribute such funds of the district to the commission for such purposes as may be agreed upon between said district and the commission; provided, that the benefit of any services that may have been performed and any data that may have been obtained by any member of said commission or any other public official in pursuance of the requirements of any law other than this act, shall be available for the use of the commission herein provided for without charge to the district whose affairs are under investigation. The commission is authorized to accept contributions from any source to pay the cost of making investigations or reports under the provisions of this act.

Short Title

SEC. 17. This act may be referred to in any action, proceeding or legislative enactment as "The California Districts Securities Commission Act."

Bond Commission Act Repealed (Chapter 366, Statutes of 1913)

SEC. 18. The act entitled "An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, State school funds and any money or funds which may now or hereafter be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing

under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized," approved June 13, 1913, as amended, is hereby repealed. This repeal does not affect any right existing or accrued nor the validity of any bonds heretofore issued in accordance with the provisions of the act hereby repealed.

Saving Clause

SEC. 19. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional or unenforceable, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase hereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional or unenforceable.

Appropriation

SEC. 20. Out of any moneys in the State treasury not otherwise appropriated, the sum of forty thousand dollars is hereby appropriated to be expended in accordance with law to carry out the purposes of this act.

RELATED LAWS

2. BONDS EXEMPT FROM TAXATION

California Constitution, Article XIII, Sec. 1¾

All bonds hereafter issued by the State of California, or by any county, city and county, municipal corporation, or district (including school, reclamation, and irrigation districts) within said State, shall be free and exempt from taxation. (New section adopted November 4, 1902.)

See 26 R. C. L. 334.

3. PAYMENT OF BONDS

California Constitution, Article XI, Sec. 13½

Any county, city and county, city, town, municipality, irrigation district, or other public corporation, issuing bonds under the laws of the State, is hereby authorized and empowered to make said bonds and the interest thereon payable at any place or places within or outside of the United States, and in any money, domestic or foreign, designated in said bonds. (Amendment adopted November 3, 1914.)

Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060.

4. DEFAULT OF IRRIGATION DISTRICT IN PAYMENT OF INDEBTEDNESS

An act providing an in rem court proceeding for the purpose of determining the inability of an irrigation district to meet its bonded or other indebtedness, and to approve a plan for the compromise payment or satisfaction, funding or refunding thereof and of requiring the holders of outstanding bonds, warrants or other

evidences of indebtedness to accept such compromise payment or satisfaction, funding or refunding bonds in lieu thereof; making the decree therein binding upon all persons whether appearing in said proceeding or not; providing a method of procedure and declaring this act to be an urgency measure.

(Approved May 18, 1933, Stats. 1933, p. 1165.)

Petition for Compromise or Satisfaction of Indebtedness

SECTION 1. If any irrigation district in the State of California shall be in default in payment of any money due by reason of its bonds, warrants or other evidences of indebtedness, and if a plan of compromise payment or satisfaction or funding or refunding any bonds, warrants or other evidences of indebtedness of such district shall have been approved or agreed upon by the California Districts Securities Commission and the holders of two-thirds (2/3) in amount of such bonds, warrants or other evidences of indebtedness, thus to be so paid, satisfied, funded or refunded, and if the board of directors of such district shall have likewise approved or agreed to said plan and if such payment or satisfaction or the issuance of funding or refunding bonds under such plan has been authorized by the voters of such district in the manner provided by law, then any one or more of the holders of the bonds, warrants or other evidences of indebtedness thus to be paid, satisfied or refunded may file a petition in the superior court in the county in which the principal office of said district is located, setting forth: (1) the fact that said default has taken place; (2) that the district is unable to pay its indebtedness or some part thereof in the manner required by law; (3) that unless a plan of compromise payment or satisfaction, reorganization, funding or refunding of its outstanding indebtedness or a portion thereof is accomplished, a substantial loss will be sustained by the holders of the bonds, warrants or other evidences of such indebtedness; (4) that it is necessary in order to prevent a substantial loss to such holders that a plan of compromise payment or satisfaction, reorganization, funding or refunding of the indebtedness of the district or a portion thereof be effected; and (5) that a plan of compromise payment or satisfaction or funding or refunding of said indebtedness has been approved or agreed to by the California Districts Securities Commission and the holders of two-thirds (2/3) in amount of the bonds, warrants or other evidences of said indebtedness thus to be paid, satisfied, or funded or refunded and has been agreed to by said district, and that such payment, satisfaction or refunding bonds have been authorized by the voters of said district pursuant to said plan in the manner required by law, and that said plan is fair and equitable and no other plan, procedure or action on behalf of such bondholders would be as advantageous to them or would enable them to receive as much money or other things of value as would be received by them under said plan.

Notice and Hearing on Petition

SEC. 2. Upon the filing of said petition the court shall first set a date for the hearing thereof, which date shall not be less than ninety (90) days from the filing of said petition and the court shall direct the

manner of giving notice of the filing of said petition and of the date set for hearing of the same. In making such order the court shall direct that written notice thereof shall be mailed to all known bondholders and creditors of said district to such addresses as they may file with the secretary of the district, otherwise to their last known place of residence, and shall provide for the posting of said notice in three public places in the county and for the publication of such notice not less than once a week for four weeks in a newspaper of general circulation printed in the county, if there be one, and in similar newspapers in the cities of Los Angeles, San Francisco, Oakland and Sacramento. Such order shall provide for such further notice as the court may deem proper under the circumstances of the particular proceeding.

Decree for Part Payment of Indebtedness

SEC. 3. Any bondholder or creditor of said district may appear and file an answer therein and the court may permit intervention by any party whose interest may be affected by such proceeding. Upon the date set for the hearing thereof or upon any date to which such hearing may be continued the court shall hear, try and determine the issues of fact involved therein, and shall take evidence for or against the ability of said district to meet its obligations or to continue to function as such, and the necessity and the fairness of said plan of compromise payment or satisfaction or funding or refunding of the bonded or other indebtedness of the district. If the court shall find that the essential allegations of said petition are true the court shall thereupon make and file its findings of fact and conclusions of law. If the essential allegations of the petition are not sustained, the proceeding shall be dismissed. If they are sustained the court shall enter its decree requiring all holders of the bonds, warrants or other evidences of indebtedness being so paid, satisfied or refunded to deposit their bonds pursuant to said plan, and the district shall thereupon and pursuant to said plan pay the money agreed in compromise payment or satisfaction thereof or issue its funding or refunding bonds in exchange therefor. The decree shall further provide that if any holder of bonds, warrants or other evidences of indebtedness shall not deposit his bond, warrant or other evidence of indebtedness as aforesaid, the district treasurer shall deposit the money agreed in compromise payment or satisfaction thereof or the refunding bond or bonds to be issued in exchange for the outstanding bond, warrant or other evidence of indebtedness of such nondepositing holder with the California Districts Securities Commission and upon such deposit and the issuance of the receipt of said California Districts Securities Commission therefor the obligation of such outstanding bond, warrant or other evidence of indebtedness shall terminate and the rights of the holder thereof shall be limited to his right to obtain such deposited money or refunding bond or bonds upon surrender by holder of his bond, bonds or warrants, as the case may be, and upon executing to the California Districts Securities Commission a receipt therefor. The California Districts Securities Commission is hereby authorized to, and it shall, act as the depositary of such evidences of indebtedness and shall perform all duties incident thereto as indicated by this act.

In Rem Proceeding

SEC. 4. The proceeding hereinabove provided for shall be conclusively deemed to be in rem and the decree therein binding upon all persons whether appearing therein or not.

Appeal to Supreme Court

SEC. 5. Any holder of any bonds, warrants or other evidences of indebtedness affected by any such court proceedure provided for by this act or any other interested party shall have the right to appeal to the Supreme Court at any time within the time allowed by law. The Supreme Court, in inquiring into the regularity, legality or correctness of any of said proceedings must disregard any error, irregularity or omission which does not affect the substantial rights of the parties and may approve the proceedings in part and disapprove the remainder thereof. The costs of the special proceedings may be allowed and apportioned between the parties in the discretion of the court. Any judge of the superior court of the county in which any such proceeding is brought shall be disqualified to act as judge of said court in passing upon any such proceeding.

Urgency Clause

SEC. 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution and shall therefore go into immediate effect.

The facts constituting the necessity are as follows: Many irrigation districts organized under the laws of the State of California, are now in a bankrupt condition and unable to meet their obligations in full and are in the process of devising ways and means for the compromise payment or satisfaction thereof or funding or refunding their bonded indebtedness, and it is impossible to locate all of the owners of their securities to secure their assent thereto; that if this legislation is not made immediately effective and on the contrary shall become effective ninety (90) days after the final adjournment of this session of the Legislature, it will be too late to make such plans applicable to the tax rate levied by such districts for the calendar year 1934; that the inability to levy a rate in accordance with such plan for the calendar and fiscal year 1934 will in most instances result in serious and substantial prejudice of, and financial loss to, the bondholders, creditors and districts.

5. DEPOSIT OF FUNDS AND SECURITY THEREFOR

DEPOSIT OF PUBLIC MONEYS

California Constitution, Article XI, Sec. 16½ [1]

All moneys belonging to, or in the custody of, the State, or any county, city and county, city, town, municipality or other public or municipal corporation, within the State may be deposited in any

[1] Deposit of moneys by irrigation districts, see section 27*b*, California Irrigation District Act, *infra*, p. 85.

national bank or banks within this State, or in any bank or banks organized under the laws of this State, in such manner and under such conditions as may be provided by any law adopted by the people under the initiative or by a two-thirds vote of each house of the Legislature and approved by the Governor and subject to the referendum; provided, that the laws now governing the deposit of such moneys shall continue in force until such laws shall be amended, changed or repealed as in this section authorized; and provided, further, that the State or any county, city and county, city, town, municipality or other public or municipal corporation, issuing bonds under the laws of this State, may deposit moneys in any bank or banks outside this State for the payment of the principal or interest of such bonds at the place or places at which the same are payable. (Amendment adopted November 8, 1932.)

BONDS SECURITY FOR COUNTY AND MUNICIPAL OR PUBLIC CORPORATION DEPOSITS

An act to authorize and control the deposit in banks of money belonging to or in the custody of any county, city and county, city, town, municipality or other public or municipal corporation within this State, and to repeal all acts or parts of acts in conflict with this act.

(Approved April 28, 1933, Stats. 1933, p. 642.)

Security for Deposits

SEC. 4. For the security of inactive deposits there shall be deposited with such treasurer treasury notes or bonds of the United States, or of this State or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district or irrigation district within this State, which bonds shall be approved by the treasurer and attorney of the county, city and county, city, town, municipality or other public or municipal corporation. The market value of the bonds furnished shall be at least ten per cent in excess of the amount of the deposit secured thereby; but the amount of the deposit shall in no case exceed the face value of the bonds furnished as security therefor. For the security of active deposits, there shall be deposited with such treasurer, treasury notes or bonds of the United States or of this State, or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district or irrigation district within this State, or the surety bond or bonds of any corporation or corporations qualified to act as sole surety on bonds or undertakings required by the laws of this State; provided, that the furnishing of surety bonds shall be optional with the treasurer; provided, however, that when there is no qualified bank within the county or city and county owning the money, or the county or counties within which the city, town, municipality or other public or municipal corporation owning the money is situated requesting such active deposit, and offering any of the classes of securities, including surety bonds, herein provided for such deposits, then no such surety bond or notes or bonds shall be accepted as security for active deposits in banks outside of such county while any notes or bonds of the United States, or of this

State, or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district or irrigation district within the State shall be offered as security for active deposits by any bank in the State qualified to accept such deposits; provided further, that the penalty or the aggregate of the penalties of any surety bond or bonds covering deposits in any one bank given by any surety company shall not exceed ten per cent of the capital and surplus of such company, according to the statement thereof contained in the last preceding report issued by the United States Treasury Department, but in fixing such limit there shall be deducted from such penalty the amount of any reinsurance the terms of which inure directly to the county, city and county, city, town, municipality or other public or municipal corporation making the deposit, placed with a company qualified to execute bonds hereunder within the limits applicable to said company and evidence of such reinsurance shall be furnished to the treasurer making the deposits within twenty days after the date of such surety bond.

Such securities shall be approved by the treasurer and attorney of such county, city and county, city, town, municipality or other public or municipal corporation to an amount in value at least ten per cent in excess of the amount of the deposit with such bank or banks. No surety bond shall be accepted from any surety company, unless said company shall be approved by the Insurance Commissioner of the State as a company possessing the qualifications herein required to secure the deposit of any funds, and it shall be the duty of said commissioner to issue such certificate on demand of the proper officer of the county, city and county, city, town, municipality or other public or municipal corporation showing the qualifications of such companies; and, unless said company shall also hold a certificate of authority from the United States Treasury Department as being acceptable as a surety on Federal bonds. The form of bonds required under this act shall be approved by the attorney for such county, city and county, city, town, municipality or other public or municipal corporation.

The general act for securing public moneys on deposit does not apply to irrigation districts.

Wood vs. *Imperial Irr. Dist.*, 216 Cal. 748.

See section 16½ of Article XI of the California Constitution, as amended November 8, 1932.

BONDS SECURITY FOR STATE BANK DEPOSITS

An act to authorize and control the deposit in banks of money belonging to or in the custody of the State and to repeal all acts or parts of acts in conflict with this act.

(Approved April 12, 1923, Stats. 1923, p. 21; amended Stats. 1927, p. 98; 1931, p. 2182.)

Sec. 4. For the security of inactive deposits, there shall be deposited with the treasurer treasury notes or bonds of the United States, or of this State or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, or irrigation district within this State, which bonds shall be approved by the Governor, Controller and Treasurer, to an amount in

value at least ten per cent in excess of the amount of the deposit with such bank or banks. For the security of active deposits, there shall be deposited with the treasurer treasury notes or bonds of the United States or of this State or of any county, city and county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district or irrigation district within this State, or the surety bond or bonds of any corporation or corporations qualified to act as sole surety on bonds or undertakings required by the laws of this State; provided, that the penalty or the aggregate of the penalties of any surety bond or bonds covering deposits in any one bank given by any surety company shall not exceed ten per cent of the capital and surplus of such company, according to the statement thereof contained in the last preceding report issued by the United States Treasury Department, but in fixing such limit there shall be deducted from such penalty the amount of any reinsurance the terms of which inure directly to the State of California, placed with a company qualified to execute bonds hereunder within the limits applicable to said company, and evidence of which reinsurance shall be furnished to the treasurer within twenty days after the date of such surety bond. Such securities shall be approved by the Governor, Controller and Treasurer to an amount in value at least ten per cent in excess of the amount of the deposit with such bank or banks. No surety bond shall be accepted from any surety company, unless said company shall be approved by the Insurance Commissioner of the State as a company possessing the qualifications herein required to secure deposit of State funds, and it shall be the duty of said commissioner to issue such certificate on demand of the State Treasurer showing the qualifications of such company; and, unless said company shall also hold a certificate of authority from the United States Treasury Department as being acceptable as a surety on Federal bonds. The form of bonds required under this act shall be prescribed by the Attorney General of the State. (Amended, Stats. 1931, p. 2182.)

6. BOND VALIDATING ACTS

BONDS AND REFUNDING BONDS OF IRRIGATION DISTRICTS AND PROCEEDINGS VALIDATED

VALIDATING ACT OF 1925

An act to validate certain bonds of certain irrigation districts and all proceedings relative thereto, and to provide for the levy and collection of taxes to pay the principal and interest on such bonds.

(Approved May 19, 1925; Stats. 1925, p. 373.)

Bonds and Proceedings Validated

SECTION 1. Whenever prior to the taking effect of this act proceedings have been taken by any irrigation district organized or purported to be organized under any law or laws of this State, for the issuing and selling of bonds of such district, for any purpose or purposes, all the acts and proceedings of the board of trustees of such district and all of the acts of the board of supervisors of the county or counties in which such district or any part thereof is situated and all of

the acts of all public officers in connection therewith leading up to and including the issuance of such bonds if they have hitherto been issued or sold, and all such acts and proceedings heretofore had although the bonds are not yet issued or sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district to issue such bonds is hereby acknowledged, granted, ratified, confirmed and declared, and the bonds heretofore issued and sold and the bonds heretofore authorized to be issued which may be hereafter issued and sold, are declared to be and shall be, the legal and binding obligations of, and against the district having heretofore issued, or hereafter issuing, such bonds, and the faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

Levy and Collection of Assessments for Payment of Principal and Interest

SEC. 2. For the purpose of paying the interest on such bonds as it becomes due and the principal thereof at maturity, the board of trustees of the district and the board of supervisors of the county or counties in which such irrigation district or any part thereof lies, and the various county officers of the respective counties who are charged with duties in connection with the assessment, levy and collection of taxes, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes, and custody of funds, for the payment of the principal and interest of bonds of such districts, at the times and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts.

Certain Bonds Not Validated

SEC. 3. This act shall not operate to legalize the sale hereafter of any bonds of any such district at a price of less than par, nor to legalize any bonds in cases where the question of issuing the same has been submitted to the vote of the qualified electors or of the taxpayers, and has failed to obtain the number of favorable votes required by the particular statute under which the proceedings were taken.

VALIDATING ACT OF 1931

An act to validate bonds, including refunding bonds, of irrigation districts and all proceedings relative thereto, and to provide for the levy and collection of taxes to pay the principal and interest on such bonds.

(Approved April 20, 1933, Stats. 1933, p. 572.)

Bonds and Proceedings Validated

SECTION 1. Whenever proceedings have heretofore been taken by any irrigation district organized or existing under any law or laws of this State, for the issuance and sale of bonds, including refunding bonds, of such district for any purpose or purposes, all acts and proceedings of the board of directors of such district and all acts of the board of supervisors of the county or counties in which such district or any part

thereof is situated and all acts of public officers in connection therewith leading up to and including the issuance of such bonds, including refunding bonds, if they have hitherto been issued or sold, and all such acts and proceedings heretofore taken if such bonds, including refunding bonds, are not yet issued or sold, are hereby legalized, ratified, confirmed and declared valid to all intends and purposes, and the power of such district to issue such bonds, including such refunding bonds, is hereby ratified, confirmed and declared, and such bonds and refunding bonds heretofore issued and sold are declared to be and shall be, in the form and manner in which such bonds and refunding bonds have been actually issued and delivered, the legal and binding obligations of and against such district, and the bonds and refunding bonds heretofore authorized to be issued which may be hereafter issued and sold are declared to be and shall be the legal and binding obligations of such district, and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds, including refunding bonds.

This act shall not be construed to validate any bonds which may have heretofore been declared void by final decree of court.

Levy and Collection of Assessments for Payment of Principal and Interest

SEC. 2. For the purpose of paying the interest on such bonds or refunding bonds as it becomes due and the principal thereof at maturity the board of directors of the district and other officers who are charged with duties in connection with the assessment, levy and collection of taxes, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds, for the payment of the principal and interest of bonds of such districts, at the times and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts and the payment thereof.

The act approved May 25, 1919; Stats. 1919, p. 1004, authorizing irrigation districts to refund outstanding bonded indebtedness was repealed in 1931 (Stats. 1931, p. 121), as was also act approved April 1, 1897 (Stats. 1897, p. 394; amended, Stats. 1901, p. 514), providing for the issue and sale or exchange of refunding bonds of irrigation districts. (See Stats. 1931, p. 121.)

VALIDATING ACT OF 1933

An act to validate bonds, including refunding bonds, of irrigation districts and all proceedings relative thereto, and to provide for the levy and collection of taxes to pay the principal and interest on such bonds.

(Approved April 20, 1933, Stats. 1933, p. 572.)

Bonds and Proceedings Validated

SECTION 1. Whenever proceedings have heretofore been taken by any irrigation district organized or existing under any law or laws of this State, for the issuance and sale or exchange of bonds, including refunding bonds, of such district for any purpose or purposes, all acts and proceedings of the board of directors of said district and all acts of the board of supervisors of the county or counties in which

such district or any part thereof is situated and all acts of public officers in connection therewith leading up to and including the issuance of such bonds, including refunding bonds, if they have hitherto been issued or sold or exchanged, and all such acts and proceedings heretofore taken if such bonds, including refunding bonds, are not yet issued or sold or exchanged, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of such district to issue such bonds, including such refunding bonds, is hereby ratified, confirmed and declared, and such bonds and refunding bonds heretofore issued and sold or exchanged are declared to be and shall be, in the form and manner in which such bonds and refunding bonds have been actually issued and delivered, the legal and binding obligations of and against such district, and the bonds and refunding bonds heretofore authorized to be issued which may be hereafter issued and sold or exchanged are declared to be and shall be the legal and binding obligations of such district, and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds, including refunding bonds.

Levy and Collection of Assesments for the Payment of Principal and Interest

SEC. 2. For the purpose of paying the interest on such bonds or refunding bonds as it becomes due and the principal thereof at maturity, the board of directors of the district and other officers who are charged with duties in connection with the assessment, levy and collection of taxes, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy and collection of taxes and custody of funds, for the payment of the principal and interest of bonds of such districts, at the times and in the manner respectively set forth in the respective law or laws authorizing or purporting to authorize the incurring of bonded indebtedness or issuance of bonds by such districts and the payment thereof.

7. ISSUANCE OF DUPLICATE BONDS

An act to provide for the issuance of duplicates of bonds, warrants and other municipal securities which have become defaced or mutiliated.

(Approved February 23, 1907, Stats. 1907, p. 53; amended, Stats. 1927, p. 350.)

Mutilated Bonds: Issuance of Duplicates

SECTION 1. Whenever it shall be made to appear to the legislative body of any county, city and county, city, town, irrigation district, reclamation district, school district or other municipal corporation, by clear and unequivocal proof, that any bond, warrant, or other evidence of indebtedness of said county, city and county, city, town, irrigation district, reclamation district, school district, or other municipal corporation has, without bad faith upon the part of the owner, been so mutilated or defaced as to impair its value to the owner, and such instrument is capable of being identified by number and description, such legislative body shall, under such regulations and with such restrictions as to time and retention for security or otherwise, as it may prescribe, and upon the conditions hereinafter

provided, issue or cause to be issued a duplicate thereof, having the same time to run, bearing like interest, and having the same number as the evidence of indebtedness so proved to have been mutilated or defaced. (Amended, Stats. 1927, p. 350.)

Procedure to Procure Duplicates

SEC. 2. The owner of such bonds or other evidences of indebtedness desiring to have issued duplicates for the same, shall make a written application therefor to the legislative body of such municipal corporation, setting forth the facts provided by section 1, and shall accompany such request with a deposit of such sum of money as shall be deemed sufficient by such legislative body to cover the cost of printing or lithographing, or otherwise preparing such duplicate, and all other expenses connected with the issuance thereof, and if required by such legislative body, shall also file therewith a bond in such sum as may be required, with good and sufficient sureties, to be approved by such legislative body, with condition to indemnify and save harmless such municipal corporation from any claim upon such mutilated or defaced security.

Duty of Legislative Body

SEC. 3. The legislative body of such municipal corporation shall thereupon pass a resolution, setting forth the fact of said application and the compliance with the conditions herein prescribed, and with such further conditions as shall have been required by said legislative body in accordance herewith, and directing the officer or officers who had charge, in the first instance, of causing to be printed, lithographed, or otherwise prepared the original bond, warrant, or other evidence of indebtedness, to cause to be issued a duplicate thereof, as herein provided. Such duplicate bond, warrant, or other evidence of indebtedness shall be signed by the same officers, and issued in all respects as nearly as possible as the original instrument, and when so prepared and issued shall be delivered in exchange for the original bond, warrant, or other evidence of indebtedness; provided, that no exchange shall be made unless such defaced or mutilated bond, together with any coupons thereon for which duplicates shall be issued in accordance with this act, shall be capable of identification, and shall first be surrendered by the owner thereof. When surrendered, the legislative body of such municipal corporation shall cause proper record to be made of the cancellation of such original security, and thereafter the duplicate issued in accordance with the provisions of this act, shall have all the force, effect and validity of the original evidence of indebtedness.

Effective Date

SEC. 4. This act shall take effect immediately.

See *Brown* vs. *Anderson-Cottonwood Irr. Dist.*, 183 Cal. 188; Civil Code, Sec. 329.

8. CANCELLATION OF BONDS AND INTEREST COUPONS

An act to provide for the release of all claims and liens arising from irrigation district bonds and interest coupons voluntarily surrendered for cancellation, and to provide for the establishment of record of such release.

(Approved May 1, 1911, Stats. 1911, p. 1460.)

Petition to Surrender Irrigation Bonds and Coupons

SECTION 1. Whenever a holder of bonds and interest coupons issued by an irrigation district organized under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seven, eighteen hundred and eighty-seven, and all acts supplementary thereto, or amendatory thereof, including an act entitled, "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes," approved March thirty-one, eighteen hundred and ninety-seven; shall desire to surrender such bonds and interest coupons and have the same canceled and discharged and released as a claim against said district and as a lien or charge thereon and against any of the land or property thereof or therein, and shall desire to have it established of record that said bonds and coupons and the said claims, liens and charges arising therefrom are canceled, discharged and released, he may file a petition for such purpose in the superior court for the county wherein is situated any of the land included in said district.

Proceeding in Rem

SEC. 2. By the filing of said petition, an action in the nature of a proceeding in rem against all persons interested in said bonds or coupons or any of them, shall be deemed commenced. Notice of said proceeding shall be given by filing a notice of the pendency of the proceeding in the office of the county recorder of each of the counties wherein is situated any of the land included in said district and by publication of a notice of the pendency of the proceeding once a week for at least four weeks in one newspaper published in each of the counties wherein is situated any of the land included in said district. The notice of the pendency of the proceeding shall contain the name of the petitioner, a description of the bonds and coupons with respect of which the proceeding is commenced, a brief description of the relief sought by the proceeding, the time when the proceeding will be heard by the court, (which must not be earlier than thirty days after the last publication of said notice) and a notice to all persons interested in the proceeding requiring them to appear at such time at said court to show cause if any they have why the relief sought by the proceeding should not be granted.

Jurisdiction

SEC. 3. Upon the completion of the said publication and at the time named in the notice for the hearing, the court shall have full and complete jurisdiction of the petitioner and of the said bonds and coupons and of all parties having or claiming any interest of any kind in said bonds or coupons or any of them, for the purposes of said proceeding and shall have full and complete jurisdiction to render the judgment therein which is provided for by this act.

Hearing and Judgment

SEC. 4. Any person interested may at or before the time named in the notice for the hearing, appear and by answer filed to said petition contest the title of the petitioner to said bonds or coupons or any of them and the court shall order the entry of the default of all persons who shall have failed to so appear and answer. Thereupon or at such time to which the hearing may be continued, the court shall proceed and determine the ownership of said bonds and coupons and must in all cases require proof of the facts alleged in the petition. If the court finds that the petitioner is the owner of said bonds and coupons or some of them and that the allegations contained in the petition with respect of said bonds and coupons so owned by him are true, then the court shall by its judgment describe the bonds and coupons so owned by the petitioner and shall decree that they are surrendered, canceled, discharged and released as a claim against said district and as a lien or charge thereon and against any of the land or property thereof or therein and such judgment shall be conclusive and binding upon every person having or claiming any interest of any kind in said bonds or coupons or any of them and the said bonds and coupons shall thereupon be marked canceled by the clerk of said court and delivered by him into the possession of the said irrigation district whenever such district shall demand the same; and after said judgment, said bonds and coupons shall not comprise any claim, lien or charge against said district or any of the land or property thereof or therein.

Recordation of Judgment

SEC. 5. A certified copy of the judgment in said proceeding shall be recorded in the office of the county recorder of each of the counties wherein is situated any of the land included in said district and shall constitute complete notice that said bonds and coupons have been surrendered, cancelled, discharged and released and do not comprise any claim, lien or charge against said district or any of the land or property thereof or therein.

Rules of Procedure Applicable

SEC. 6. Except as herein otherwise provided, all the provisions and rules of law relating to evidence, pleading, practice, new trials and appeals applicable to other civil actions, shall apply to the proceedings hereby authorized.

Effective Date

SEC. 7. This act shall take effect immediately.

9. FINANCING WATERWORKS SYSTEMS BY SALE OF REVENUE BONDS TO THE UNITED STATES

An act providing an additional and/or alternative method for financing the acquirement, construction, development, improvement, reconstruction, extension and repair of waterworks systems by any political subdivision or public agency of the State authorized by law to own and operate such waterworks systems by the issuance and sale to the United States Government or any agency of said government of revenue bonds payable solely out of the revenue derived or to be derived therefrom; providing for the operation of such systems in case of deficiencies in revenues, providing for a statutory lien on works acquired, constructed, improved, reconstructed, extended or repaired under the provisions of this act; providing for the use of the power of eminent domain by political subdivisions or public agency proceeding under this act; defining the terms political subdivisions and public agencies as included herein, and providing a time for the expiration of said act.

(Approved May 27, 1933, Stats. 1933, p. 1551.)

Construction or Repair of Waterworks System

SECTION 1. Any political subdivision or public agency of the State which is authorized by law to own and operate a water system may acquire, construct, develop, improve, reconstruct, extend and repair its waterworks system as in this act provided.

Terms Defined

SEC. 2. This act shall be construed as cumulative authority for the purchase or construction of a waterworks system or for the construction of betterments and improvements thereto, and shall not be construed to repeal any existing laws with respect thereof. The term "waterworks" as used in this act shall be construed to mean and include a waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pumping plants, intakes, diversion works, canals, tunnels, aqueducts, pipe lines, controlling works, wells, impounding and/or regulating reservoirs and/or purification plants. The term "political subdivision" and "public agency" as used in this act shall be construed to mean any city, city and county, municipal utility district, utility district in unincorporated territory, county water district, irrigation district, reclamation district, water conservation district and all other political subdivisions, public corporations and public agencies of the State which are authorized by law to acquire, construct, own and operate waterworks systems. The term "legislative body" as used in this act shall be construed to mean the mayor and council or other legislative and executive body of any city, city and county or the board of directors or other governing body of any other political subdivision or public agency of the State empowered to acquire, construct, own and operate waterworks systems.

Revenue Bonds

SEC. 3. Whenever the legislative body of any political subdivision or public agency shall determine to purchase or construct a waterworks system under the provisions of this statute, it shall cause an estimate to be made of the cost thereof, and shall, by ordinance, or resolution, as may be authorized by charter or general laws under which such political subdivision or State agency operates, provide for the issuance of revenue bonds under the provisions of this statute, which ordinance or resolution shall set forth a brief description of the contemplated improvement, the estimated cost thereof, the amount, rate of interest, time and place of payment and other details in connection with the issuance of the bonds. Such bonds shall bear interest at not more than six per cent (6%) per annum, payable semiannually, and shall be payable at such times and place not exceeding fifty (50) years from their date as shall be prescribed in the ordinance or resolution providing for their issuance. Such ordinance or resolution shall also declare that a statutory lien shall exist upon the property so to be acquired or constructed, and include provisions whereby revenue is to be obtained or rates fixed for water to be collected prior to the payment of all of said bonds, and shall pledge the revenues derived from the waterworks systems for the purpose of paying such bonds and interest thereon, which pledge shall definitely fix and determine the amount of revenues which shall be necessary to be set apart and applied to the payment of the principal of and interest on the bonds and the proportion of the balance of such revenues as income which are to be set aside as a proper and adequate depreciation or reserve account, and the remainder shall be set aside for the reasonable and proper maintenance and operation thereof. The rates to be charged for the services from such waterworks shall be sufficient to provide for the payment of interest upon all bonds and to create a sinking or other retirement fund to pay the principal thereof as and when the same become due, and to provide for the operation and maintenance of the system, and to provide an adequate depreciation fund.

Election Proceedings

SEC. 4. Said ordinance or resolution shall also provide for the calling of, and call an election for the submission of the question of the issuance of said revenue bonds for the purpose set forth in said ordinance or resolution to the qualified electors within said political subdivision or public agency, and if at said election two-thirds of the votes cast shall be in favor of the issuance of said revenue bonds, the said ordinance or resolution shall go into immediate effect, otherwise said ordinance or resolution shall be null and void. Provided, however, should the proposition so submitted at such election fail to receive the requisite number of votes of the qualified voters voting at such election to incur the indebtedness for the purpose specified, the legislative body of such political subdivision or public agency shall have no power or authority within one year after such election to call or order another election for incurring any indebtedness for the acquisition, construction or completion of improvements or property substantially the same as voted upon at such prior election, unless a petition signed by at least

fifteen per centum of the qualified electors of such political subdivision or public agency computed upon the total number of votes cast therein for all candidates for Governor at the last preceding election at which a Governor was elected, be filed with the legislative body of such political subdivision or public agency, requesting that said proposition, or a proposition substantially the same, be submitted at an election to be called for the submission of such proposition and to be held in accordance with the provisions of this act. Said election shall be held within sixty days after the passage of said ordinance or resolution and no notice of said election need be given other than by publication of said ordinance or resolution at least once a week for four weeks in a daily newspaper printed and published in such political subdivision or public agency, publication to be completed not less than ten days before the date of said election; provided, however, that if there be no daily newspaper within the territory covered by such political subdivision or public agency, the notice of such election may be published in a weekly newspaper printed and published therein, or if there be no newspaper published therein, then by posting such ordinance or resolution in three public places therein, not less than ten, nor more than twenty days before the date of said election. Except as otherwise provided herein, said election shall be held in accordance with the provisions of the general law.

Sale of Bonds to Reconstruction Finance Corporation

SEC. 5. Bonds herein provided for shall be issued in such amounts as may be necessary to provide sufficient funds to pay all costs of construction or acquisition, including engineering, legal and other expenses, together with interest during construction and to a date six months subsequent to the estimated date of completion, in no event exceeding a period in excess of five years.

All such bonds shall be sold or negotiated only through the Reconstruction Finance Corporation of the United States Government, or some other appropriate agency of said government, and in conducting negotiations for a loan from said Reconstruction Finance Corporation or other government agency, the legislative body of any political subdivision or public agency is hereby authorized to consent to such other or further conditions, not inconsistent with this act, for the operation and control of such water system and of the revenues derived therefrom as may be required by the United States Government or agency thereof as conditions precedent to the purchase of said bonds.

Bonds issued under the provisions of this act are hereby declared to be negotiable instruments, and same shall be executed by the presiding officer and clerk or secretary of the political subdivision or public agency and be sealed with the corporate seal of the political subdivision or public agency, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds may be sold at not less than par and accrued interest and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued.

Bonds Secured by Revenues Only

SEC. 6. Bonds issued under the provisions of this statute shall be payable solely from the revenues derived from such waterworks system, and such bonds shall not in any event constitute an obligation of such political subdivision or public agency other than to pay the same out of the revenues pledged therefor, and shall not constitute directly or indirectly an indebtedness of such political subdivision or public agency within the meaning of the constitutional provisions or limitations, and it shall be plainly stated on the face of each bond that the same has been issued under the provisions of this act, and that it does not constitute an indebtedness of such political subdivision or public agency within any constitutional or statutory limitation.

The legislative body shall prescribe the form of the bonds, and provide that of the indebtedness represented thereby a part of the whole thereof shall be payable at a time and place to be designated in such bonds, together with the interest thereon, until the whole of said indebtedness shall have been paid; provided, the maturity date of the first bond or series of bonds so payable may be deferred for a period not exceeding five years from the date of such bonds.

The number of bonds to be paid each year need not be the same, and the legislative body may fix the maturities thereof, so that the number of bonds retired each year will, in the discretion of the governing body, be most equitable and just; provided, that in every case all of such bonds shall be completely retired and fully paid within fifty years from the date of their issuance. If any bonds are issued pursuant to this act, or any amendment thereof, it shall be a condition and a matter of contract, that said bonds and the interest thereon and all charges and expenses for maintenance or administration or otherwise arising out of the operation, maintenance and administration of any works constructed out of the proceeds of any bonds so issued, shall be paid exclusively out of the revenues arising from the operation of said district, and in no event shall any real or personal property, other than the operating property or physical works of the district, now or hereafter situated within said district ever be liable or taxed for any of said bonds or any of the expenses, costs or charges of said district, arising out of the operation, maintenance and administration of any works constructed out of the proceeds of said bonds so issued, and each bond shall contain as a condition thereof, this paragraph in full.

Waterworks System Security for Bonds

SEC. 7. There shall be and there is hereby created a statutory lien upon the waterworks system so acquired or constructed from the proceeds of bonds hereby authorized to be issued, which shall exist in favor of the holder of said bonds and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such waterworks system shall remain subject to such statutory lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions of this act or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory lien hereby conferred, and may, by proper suit, compel the performance of the duties of the officials of the issuing political subdivisions or public agency set forth in this act,

If there be default in the payment of the principal of and/or interest upon any of said bonds, any court having jurisdiction in any proper action shall require the political subdivision or public agency to charge and collect rates sufficient to provide for the payment of said bonds and interest thereon, and for the payment of the operating expenses and to apply the income and revenues in conformity with this act and the ordinance or resolution providing for the issuance of such bonds and the court may in its discretion designate and appoint an elective or appointive officer of said political subdivision or public agency to carry out any orders which the court may make, as authorized herein.

Regulation of Revenues

SEC. 8. The estimated revenue from water fixed precedent to the issuance of bonds shall not be reduced until all of said bonds shall have been fully paid, and must, whenever necessary, be increased in amounts sufficient to provide for the payment of such bonds, both principal and interest, and to provide proper funds for the depreciation account and operation and maintenance charges, provided, however, that if there shall be accumulated in the treasury a surplus in any of the accounts over and above a sum sufficient to meet the annual redemption and interest payments of the current fiscal year together with the maintenance and operation costs including a reasonable depreciation reserve for the current and next succeeding fiscal year, said surplus may be used for the purchase or retirement of outstanding revenue bonds and for that purpose the legislative body is hereby authorized to purchase bonds not due in the open market at not more than the fair market value thereof; or said surplus may be used for the construction or enlargement or extensions to the hereinbefore specified waterworks system and maintain, repair and operate the same; or said surplus may be used for the reduction of the water rates for services rendered on the hereinbefore specified waterworks system or for any or all of the above specified purposes or uses as may be determined by the legislative body of the political subdivision or public agency.

Eminent Domain

SEC. 9. For the purpose of acquiring any waterworks system under the provisions of this act, or for the purpose of acquiring any property necessary therefor, the political subdivision or public agency shall have the right of eminent domain as is provided by Title VII, of the Code of Civil Procedure of the State of California, as now or hereafter amended.

Revenue Bonds for Waterworks Improvements

SEC. 10. Whenever any political subdivision or public agency now or hereafter shall own and operate a waterworks system, whether constructed under the provisions of this act or not, and shall desire to construct improvements and betterments thereto, it may issue revenue bonds under the provisions of this act to pay for same, and the procedure therefor, including the revenue to be obtained and/or the fixing of rates and the computation of the amount thereof, shall be the same as in this act provided for the issuance of bonds for acquisition or con-

struction of a waterworks system in a political subdivision or public agency which has not theretofore owned and operated a waterworks system, provided, however, that in the ordinance or resolution declaring the intention to issue the bonds and providing details in connection therewith, the legislative body shall provide, find and declare in addition to the other requirements set out in this statute, the value of the then existing system and the value of the property proposed to be constructed, and the revenues derived from the entire system when the contemplated betterments and improvemnts are completed, shall be divided according to such values and so much of the revenue as is in proportion to the value of such betterments and improvements as against the value of the previous existing plant as so determined, shall be set aside and used solely and only for the purpose of paying the revenue bonds issued for such betterments, together with costs of the operation and the depreciation thereof, and such revenue shall be deemed to be income derived exclusively from such betterments and improvements.

Accounting and Care of Funds

SEC. 11. Any political subdivision or public agency issuing revenue bonds under the provisions of this act shall install and maintain a proper system of accounts, showing the amount of revenue received and the application of the same, and such political subdivision or public agency shall at least once a year cause such accounts to be properly audited by a competent auditor and the report of such audit shall be open for inspection at all proper times to any taxpayer, water user or any holder of bonds issued under the provisions of this act, or any one acting for and on behalf of such taxpayer, water user or bondholder. The treasurer of such political subdivision or public agency shall be custodian of the funds derived from income received from waterworks systems constructed either in whole or in part under the provisions of this statute, and shall give proper bond for the faithful discharge of his duties as such custodian, which bond shall be fixed and approved by the legislative body of the political subdivision or public agency. All of the funds received as income from a waterworks system constructed in whole or in part under the provisions of this statute, and all funds, received from the sale of revenue bonds issued to construct such waterworks system, shall be kept separate and apart from the other funds of the political subdivision or public agency, and the treasurer shall maintain separate accounts in which shall be placed the interest and sinking or other retirement fund moneys and other account in which shall be placed the depreciation funds, and to provide for refunding outstanding certificates payable out of water revenue.

Act an Alternative Method

SEC. 12. This act shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this act authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect to the construction or

acquisition of the works or to the issuance or sale of bonds under this act and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed by this act, any provisions of other statutes of the State to the contrary notwithstanding: Provided, however, that all functions, powers and duties of the State Board of Health shall remain unaffected by this act.

Liberal Construction

SEC. 13. This act being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purposes thereof.

Determination of Validity of Bonds by Court Action

SEC. 14. The legislative body of any political subdivision or public agency, as in this act provided, may at any time within sixty days from the date of the ordinance or resolution authorizing the issuance of any bonds hereunder or within sixty days from the date of the ratification of said ordinance or resolution at an election, held as in this act provided in section four (4) hereof, cause to be brought in the name of the political subdivision or public agency an action in the superior court of the county in which said political subdivision or public agency or the greater portion thereof is located, to determine the validity of any such bonds. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Any one interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such bonds. Such action shall be speedily tried and judgment rendered declaring such bonds to be valid or invalid. Either party may have the right to appeal to the Supreme Court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal. After the expiration of ninety days from the date of such election, no action may be brought by any person to contest or question the validity of said bonds, and proceedings thereto. If there be more than one action or proceeding involving the validity of any such bonds, they shall be consolidated and tried together. The court hearing any proceeding or action inquiring into the regularity, legality or correctness of the proceedings leading up to the issuance of bonds or the validity of such bonds must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten days from the filing of the notice of intention. The costs on any proceeding or action herein provided for

may be allowed and apportioned between the parties or taxed to the losing party, in the discretion of the court.

Constitutionality

SEC. 15. The sections and provisions of this act are separable and are not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the sections or provisions or parts thereof is for any reason illegal, it is the intention that the remaining sections and provisions or parts thereof shall remain in full force and effect.

If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Expiration Date of Act

SEC. 16. This act shall expire four years from the date of its going into effect and shall thereafter have no further validity except as to bonds authorized under the provisions of this act prior to the expiration of said four-year period

CHAPTER III

CALIFORNIA IRRIGATION DISTRICT ACT AND RELATED LAWS

Preliminary Statement

In 1887 California passed the first irrigation district act of general application providing for the issuance of bonds. This act, known as the Wright Act, remained on the statute books until 1897 when it was rewritten and reenacted as an entirely new law, which with its amendments is now known as the California Irrigation District Act. There have been a great many changes in and additions to the act since its passage in 1897. Each succeeding Legislature has made certain changes, in many cases mere matters of detail, as some parts of the law appeared to be unsuited or inadequate to the needs of some or all districts. There have, however, been additions as well as supplemental acts of great importance which have greatly affected the development and operation of districts under the law. These have related to the method of organization, issuance and refunding of bonds, levying and collection of assessments, delinquencies, penalties and redemptions, sale of water for power and other uses and the generation of hydroelectric power and the distribution and sale of electric energy.

1. CALIFORNIA IRRIGATION DISTRICT ACT[1]

An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes.

(Approved March 31, 1897, Stats. 1897, p. 254; amended Stats. 1901, p. 815; 1905, p. 27; 1909, pp. 12, 46, 429, 461, 998, 1062, 1075; 1911, pp. 509, 1111; 1911 (extra session), pp. 135, 139, 248; 1913, pp. 59, 781, 993; 1915, pp. 836, 1291, 1326, 1367; 1917, pp. 751, 915; 1919, pp. 472, 660, 714; 1921, pp. 849, 859, 999, 1004, 1108; 1923, pp. 83, 627, 628, 630, 631, 632; 1925, pp. 429, 460, 488, 501; 1927, pp. 23, 26, 134, 186, 188, 189, 191, 194, 205, 251, 614; 1929, pp. 161, 257, 657, 686, 1170; 1931, pp. 121, 122, 123, 172, 233, 246, 247, 325, 378, 439, 777, 1661, 1897, 2206, 2270; 1933, pp. 328, 532, 540, 569, 800, 806, 1125, 1316, 1627, 2468.)[2]

---

[1] NOTE.—Because the present act continues the principles of the original Wright Act of 1887, it is still popularly known as the "Wright Act." The Wright Act of 1887 was repealed, however, in 1897, upon the passage of the present act.

[2] NOTE.—The provisions of the present act, when adopted, were based upon the provisions of the Wright Act and acts supplemental thereto, as indicated below:

Present Act	*Original Acts*
§§1–65	Wright Act, Stats. 1887, p. 29.
§§68–72	Stats. 1889, p. 212.
§§74–84	Stats. 1889, p. 21; as amended 1893, p. 516.
§§85–97	Stats. 1889, p. 18.
§§98–99½	Stats. 1893, p. 276.
§§100–105	Stats. 1893, p. 295.
§§106–108	Stats. 1895, p. 127.

ORGANIZATION PROCEDURE

Proposal for Organization

SECTION 1. A majority in number of the holders of title or evidence of title to lands susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface or other waters, such holders of title or evidence of title representing a majority in value of said lands, may propose the organization of an irrigation district, under the provisions of this act; or the organization of such an irrigation district may be proposed by not less than five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing in the proposed district or the holder of title or evidence of title to land therein; provided, that the said petitioners must include the holders of title or evidence of title to not less than twenty per cent in value of the lands included within the proposed district. The lands proposed to be included within any such irrigation district need not consist of contiguous parcels. Any holder of land under a possessory right acquired by entry or purchase from the United States or the State of California shall be deemed to be a holder of evidence of title to said land within the meaning of this act. The county assessment roll of the county in which any lands included within such proposed irrigation district are situated, which assessment roll has been last equalized at the time of the first publication of said petition as provided in section 2 of this act, shall be conclusive evidence as to the value of said lands and the holders of title or evidence of title to said lands. If any parcel of land is assessed on any assessment roll to unknown or fictitiously named owners, or to unnamed owners in addition to any owner or owners named thereon, said parcel of land shall be deemed, for any of the purposes of this act, to have but one owner in addition to any owner or owners whose true name or names may be purported to be given on such assessment roll. The holder of title or evidence of title to an undivided interest in any land affected by any of the provisions of this act may sign any petition provided for in this act, and such undivided interest shall be counted and valued as though it were a separate interest, and if the assessment roll shall fail to indicate the extent of any such undivided interest, the holders of title or evidence of title whose undivided interests in any land are not specifically defined shall be deemed to have equal shares therein. Guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any State, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature and of the fact of place of residence of any petitioners under this act. (Amended, Stats. 1919, p. 714.)

Organization:

Assessment roll as evidence of title.

In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198.

Legislature may authorize initiatory proposal to be made by such person as it sees fit.

Imperial Water Co. vs. *Sup'rs*, 162 Cal. 14, 120 Pac. 780.

Holders of title or evidence of title.

Board of Directors vs. *Abila*, 196 Cal. 355, 39 Pac. 794;
Carson vs. *Cudworth* (Colo.), 140 Pac. 935;
In re Gallatin Irr. Dist. (Mont.), 140 Pac. 92–4;
Gem Irr. Dist. vs. *Johnson* (Idaho), 109 Pac. 845.

Inclusion of public land will not invalidate organization.

Cullen vs. *Glendora W. Co.*, 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Stevens vs. *Melville* (Utah) 175 Pac. 602;
Nevada Bank vs. *Poso Irr. Dist.*, 110 Cal. 344, 73 Pac. 1056.

But some are not liable for assessments.

Nevada Bank vs. *Poso Irr. Dist., supra.*

Pueblo lands belonging to a city may be included and are liable to assessment.

San Diego vs. *Linda Vista Irr. Dist.*, 108 Cal. 189, 41 Pac. 291.

Erroneous exclusion of lands does not invalidate organization.

Central Irr. Dist. vs. *De Lappe*, 79 Cal. 351, 21 Pac. 825;
Chambers vs. *Board of Sup'rs*, 57 Cal. App. 401, 207 Pac. 288;
Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709;
People vs. *Cardiff Irr. Dist.*, 51 Cal. App. 307, 197 Pac. 384;
Miller & Lux vs. *Board of Supervisors*, 189 Cal. 254, 208 Pac. 304;
Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal, 732, 214 Pac. 223.

Proceedings relating to organization only and not relating to assessments are not subject to the rule of strict construction.

Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709;
People vs. *Cardiff Irr. Dist.*, 51 Cal. App. 307, 197 Pac. 384.

In organization of district, board of supervisors exercise judicial function.

Imperial Water Co. vs. *Board of Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Chambers vs. *Board of Sup'rs*, 57 Cal. App. 401, 207 Pac. 288.

Right to use water from a common source and right to be excluded from district are both property rights of great value.

Imperial Water Co. vs. *Board of Sup'rs, supra.*

Petition to Organize District

SEC. 2. In order to propose the organization of an irrigation district, a petition signed by the requisite majority of holders of title or evidence of title to lands within the proposed district or by at least five hundred petitioners, as provided in section 1 of this act, shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated. Said petition shall set forth generally the boundaries of the proposed district and also shall state generally the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs in case said organization shall not be effected. Said petition shall be presented at a regular meeting of said board, and shall be published for at least two weeks before the time at which the same is to be presented in some newspaper of general circulation printed and published in the county where said petition is presented together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above

provided, in a newspaper published in each of said counties. When contained upon more than one instrument, one copy only of such petition need be published, but the names attached to all of said instruments must appear in such publication. On or before the day on which said petition is presented to said board of supervisors, a copy of said petition shall be filed in the office of the State Engineer. Signatures to the petition may be withdrawn at any time before the publication is commenced as in this section required, by filing a declaration, signed by the petitioner, with the board of supervisors before which the petition is to be presented, stating that it is the intention of the petitioner to withdraw therefrom, which declaration shall be acknowledged in the same manner as conveyances of real estate are required to be acknowledged. When said petition is presented, said board of supervisors shall hear the same and shall proceed to determine whether or not said petition complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevant testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not exceeding two weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, and no lack of signatures thereto, or to the petition as published, shall vitiate any proceedings thereon; provided, such petition or petitions have a sufficient number of qualified signatures attached thereto. The determination of the board shall be expressed by resolution. If it shall determine that any of the requirements hereinbefore set forth have not been complied with, the matter shall be dismissed, but without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures, if such additional signatures are necessary to comply with the requirements of this act. If the board of supervisors shall determine that the petitioners have complied with the requirements hereinbefore set forth it shall cause a copy of the resolution so declaring to be forwarded to the State Engineer. Upon receiving a copy of said resolution, the State Engineer shall make or cause to be made such preliminary investigation as may be practicable, with a view to determining the feasibility of the project proposed to be undertaken. He shall report as soon as practicable, but at all events within ninety days from the date of the adoption of the said resolution, in writing, on the matter to the board of supervisors from which the copy of said resolution was received, except that upon receiving a written request from the State Engineer, the board of supervisors may at any meeting before the expiration of said ninety days grant to the State Engineer not more than ninety days additional time in which to make said report. If the State Engineer shall report within the time specified herein that the supply of water available for the use of the proposed district, or that may be acquired by any practicable means, including the condemnation of existing rights, is not sufficient or that the project is not feasible for any other reason or reasons, the hearing of the matter shall be continued for not more than two months and shall then be dismissed unless the board of supervisors shall be petitioned in writing by three-fourths of the holders of title or evidence of title to land within said proposed district to grant said

petition; provided, that if the board of supervisors is not so petitioned, it may modify the plans for the proposed district in accordance with recommendations by the State Engineer. If after receiving an adverse report from the State Engineer the board of supervisors shall be petitioned as aforesaid or shall decide to modify the plans for the proposed district in accordance with recommendations by the State Engineer, it shall, at the time to which the hearing of said matter shall have been continued, set a time for the final hearing thereof. If the continuance of the matter is not compelled by an adverse report as aforesaid, the board of supervisors, at its first regular meeting after the receipt of a report from the State Engineer, or at the first regular meeting after the expiration of the time allowed for the making of such report if no such report has been received, shall set a time for a final hearing of the matter. In any case the time set for the final hearing as aforesaid shall not be less than one week from the meeting at which said time was set; provided, that notice of the time of such final hearing shall be given by registered mail to such party as shall have been designated for that purpose by the petitioners, or by publication for at least three days in one daily newspaper published in the county in which the lands within the proposed district, or the greater portion thereof are situated. A failure to give such last mentioned notice, however, shall not affect the validity of subsequent proceedings. On a final hearing herein provided for, the board may adjourn from time to time, but at no time for a longer period than three days until a determination of the matter is reached. On said final hearing said board shall make such changes in the proposed boundaries as it may deem advisable and shall define and establish such boundaries, but said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from any of the sources proposed, unless said board shall decide to modify the plan for such proposed district, as herein provided, nor shall any lands which will not, in the judgment of said board, be benefited by irrigation by means of said systems or works be included within such proposed district. Lands already irrigated and riparian lands may be included in the district if in the judgment of the board of supervisors such land will be benefited, or if the water used thereon or the rights to the use of water thereon should, in the judgment of the board of supervisors, be taken or acquired for the district. Any person whose lands are susceptible of irrigation from any of the proposed sources may, upon his application, in the discretion of said board, have such lands included within said proposed district. (Amended, Stats. 1919, p. 715.)

Petition:

The form or contents of the petition is not important, provided that it contains the required recitals showing the boundaries; the proposed sources of supply; that it is the purpose of the petitioners to organize an irrigation district; and praying that the same be organized thereunder.

Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709;
William Hanley Co. vs. *Harney Valley Irr. Dist.* (Ore.), 180 Pac. 725.

Petition, signatures, and bond for cost of organization:

Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 794;
Fogg vs. *Perris Irr. Dist.*, 154 Cal. 209, 97 Pac. 316;
Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825;
In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
McAulay vs. *Board of Sup'rs*, 178 Cal. 628, 174 Pac. 30;

Black Canyon Dist. vs. *Marple* (Idaho), 112 Pac. 766;
Corell vs. *Lee*, 71 Cal. App. 361, 235 Pac. 79.

Owners of possessory rights are eligible as petitioners.
Imperial Water Co. vs. *Sup'rs*, 162 Cal. 25, 120 Pac. 780.

It appears to be proper for the board of supervisors to appoint someone as referee to compare the petitions and assessment roll.
Imperial Water Co. vs. *Sup'rs, supra.*

The best evidence, however, is required.
Wilder vs. *Board, etc.* (Colo.), 135 Pac. 461;
Ahern vs. *Board of Directors* (Colo.), 89 Pac. 964.

The presentation to the board of a bond is jurisdictional, and where, although the bond was informal it was a binding obligation upon those who signed it, the proceedings are not rendered illegal. The supervisors may permit a new bond to be filed.
In re Madera Irr. Dist., 92 Cal. 329, 28 Pac. 272, 675;
Central Irr. Dist. vs. *DeLappe*, 79 Cal. 357; 21 Pac. 825;
Bliss vs. *Hamilton*, 171 Cal. 123, 152 Pac. 303.

Description of boundaries:

A description by metes and bounds sufficient for an ordinary conveyance will suffice. The petition is sufficient so long as the boundaries can be definitely located.
Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825;
In re Madera Irr. Dist., 92 Cal. 296; 28 Pac. 272, 675;
Cullen vs. *Glendora Water Co.*, 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Board of Directors vs. *Kimball* (Wash.), 157 Pac. 38;
Metcalfe vs. *Merritt*, 14 Cal. App. 244, 111 Pac. 505;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Yoder vs. *Board of Sup'rs*, 208 Cal. 368, 281 Pac. 393.

Land in irrigation district may be included in municipal water district.
Heushaw vs. *Foster*, 176 Cal. 507, 169 Pac. 82.

Land in irrigation district may be included in public utility district; need not embrace all of irrigation district as latter is not a municipal corporation.
Randolph vs. *Co. of Stanislaus*, 44 Cal. App. 322, 186 Pac. 625.

Irrigation district may embrace lands lying in more than one county.
Turlock Irr. Dist. vs. *Williams*, 76 Cal. 360, 18 Pac. 379.

Notice, publication, etc.:
In re Central Irr. Dist., 117 Cal. 382, 49 Pac. 354;
Fogg vs. *Perris Irr. Dist.*, 154 Cal. 209; 97 Pac. 316;
Imperial Water Co. vs. *Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Tulare Dist. vs. *Shepard*, 185 U. S. 1, 46 L. Ed. 773;
Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709;
Wm. Hauley Co. vs. *Harney Valley Irr. Dist.* (Ore.), 180 Pac. 724.

The time set for the hearing must be at a regular meeting of the board of supervisors, but it is not necessary that the notice specify that fact.
Imperial Water Co. vs. *Sup'rs, supra.*

The notice need not be separately signed and may precede the petition, with the signatures attached to the petition.
Fogg vs. *Perris Dist., supra;*
Ells vs. *Board of Sup'rs, supra.*

The date of the petition and notice should not vary.
Ahern vs. *Board of Directors* (Colo.), 89 Pac. 964.

Hearing:

At the hearing, the assessment roll is sufficient evidence of ownership.
In re Bonds of So. Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198.

Right to withdraw from petition:

A petitioner may withdraw his name from the petition at any time prior to its presentation to the board of supervisors on the day fixed therefor; but see amendment of 1919 suspended by referendum.
McAulay vs. *Board of Sup'rs*, 178 Cal. 628, 174 Pac. 30;
Corell vs. *Lee*, 71 Cal. App. 361, 235 Pac. 79.

Inclusion and exclusion of lands:

While it appears that the action of the board can not be arbitrary (*Ahern* vs. *Board of Directors* (Colo.), 89 Pac. 964), yet in the absence of fraud the action of the board of supervisors can not be attacked.

Cullen vs. *Glendora Water Co.*, 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Fallbrook Irr. Dist. vs. *Bradley*, 164 U. S. 112.

The application for inclusion or exclusion need not be in writing.

Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825.

Character of irrigation districts:

Western Assurance Co. vs. *Drainage Dist.*, 72 Cal. App. 76, 237 Pac. 59;
Jenison vs. *Redfield*, 149 Cal. 500, 87 Pac. 62;
Lindsay-Strathmore Irr. Dist. vs. *Superior Court*, 182 Cal. 315, 187 Pac. 1056;
Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060;
Tormey vs. *Anderson-Cottonwood Irr. Dist.*, 53 Cal. App. 559, 200 Pac. 814;
Whiteman vs. *Anderson-Cottonwood Irr. Dist.*, 60 Cal. App. 234, 212 Pac. 706.
Wood vs. *Imperial Irr. Dist.*, 216 Cal. 748;
Morrison vs. *Smith Bros.*, 211 Cal. 36;
Yolo vs. *Modesto Irr. Dist.*, 216 Cal. 274

Character of land that may be included:

As to the land that may be included within a district, the jurisdiction of the board seems to be very broad. It is proper to include cities and any land that in its natural state would be benefited by irrigation.

La Mesa Homes Co. vs. *La Mesa Irr. Dist.*, 173 Cal. 121, 159 Pac. 593;
Tregea vs. *Modesto Irr. Dist.*, 164 U. S. 179;
Fallbrook Irr. Dist. vs. *Bradley*, 164 U. S. 112.

On the inclusion of city or town lots, *see also*

Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 794;
In re Central Irr. Dist., 117 Cal. 382, 49 Pac. 354;
Imperial Water Co. vs. *Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Nampa Irr. Dist. vs. *Brose* (Idaho), 83 Pac. 499;
Chambers vs. *Board of Supervisors*, 57 Cal. App. 401, 207 Pac. 288.

It appears that rights of way of railroads may likewise be included.

Oregon Short Line, etc., vs. *Pioneer Dist.* (Idaho), 102 Pac. 905.

See, also, *Atchison, T. & S. F. Ry Co.* vs. *Ree. Dist.*, 173 Cal. 91, 159 Pac. 430; *Southern Pacific Co.* vs. *Stibbens*, 103 Cal. App. 664, 285 Pac. 374.

Fixing of boundaries by board of supervisors:

Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825;
Cullen vs. *Glendora Water Co.*, 113 Cal. 517, 39 Pac. 769, 45 Pac. 822, 1047;
Board of Directors vs. *Tregea, supra;*
Imperial Water Co. vs. *Sup'rs, supra;*
Board of Directors vs. *Kimball* (Wash.), 157 Pac. 38;
Ahern vs. *Board of Directors* (Colo.), 89 Pac. 963.

Inclusion or exclusion after organization:

Where the petitioner brings himself within the specified classes of those entitled to exclusion, he has an absolute right to such exclusion and writ of mandate will issue to enforce such right, and he is not estopped by participation in formation proceedings.

Harelson vs. *San Joaquin Irr. Dist.*, 20 Cal. App. 324, 128 Pac. 1010.

As to necessity of notice to owners of included lands in case of proceedings for change of boundaries, *see*

People vs. *Cardiff Irr. Dist.*, 51 Cal App. 307, 197 Pac. 384, 26 Cal. Jur., p. 372.

Injunction may be granted, in a proper case, to prevent inclusion of lands.

Harbough vs. *Enlarged Baxter Creek Irr. Dist.*, 58 Cal. App. 134, 207 Pac. 1018.

State Engineer, procedure upon receipt of adverse report by:

Rich et al. vs. *Connelly*, 52 Cal. App. 556, 199 Pac. 540.

The report of the State Engineer, the certificate of acknowledgment and the affidavit annexed to the petition may be considered by the board in arriving at the jurisdictional facts.

Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 209 Pac. 304.

The report of the State Engineer is advisory only.

Rich vs. *Connelly*, 52 Cal. App. 556, 199 Pac. 540.

Where organization is defeated the burden of cost is placed on the promoter under the required undertaking.

Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223.

The provision that errors in or omissions of names shall not vitiate proceedings is valid.

Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709.

It is not a jurisdictional defect that the notice of time of presentation of the petition to the board of supervisors is not signed by all petitioners.

Imperial Water Co. vs. *Board of Sup'rs*, 162 Cal. 14, 120 Pac. 780.

The petition for formation is the basis for all proceedings and all else is evidentiary and procedural.

Rich vs. *Connelly*, 52 Cal. App. 556, 199 Pac. 540.

State Engineer to Furnish Information

SEC. 2a. The State Engineer shall have authority, and it shall be his duty, to give information so far as may be practicable to persons contemplating the organization of irrigation districts under the provisions of this act. Whenever the department of engineering shall deem it in the public interest that preliminary surveys and field investigations of proposed irrigation district projects shall be made at the expense of the State, the State Engineer shall make such surveys and field investigations of such proposed irrigation district projects, and, pending the completion of such surveys and investigation, the State Water Commission shall have authority to withhold from appropriation any unappropriated waters likely to be needed therefor. (Added, Stats. 1917, p. 755.)

Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 208 Pac. 304;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171.

Order of Supervisors Reaffirming Conclusions

SEC. 3. Upon the final hearing of said petition or said matter, the board of supervisors shall make an order reaffirming its conclusions as to the genuineness and sufficiency of the petition and notice hereinbefore provided for, reciting that a report regarding the proposed district has been made by the State Engineer and is on file with the other records of the board, and describing the boundaries of the proposed district as defined and established by said board. Said order shall be entered in full upon the minutes of said board. At said final hearing no evidence shall be heard against the genuineness or sufficiency of said petition or notice unless it shall be shown to the satisfaction of said board that new evidence which, if uncontradicted, would disprove the genuineness or sufficiency of said petition or notice has been discovered since said board adopted the resolution declaring that said petition and notice complied with all the requirements of this act. In case any new evidence is admitted, full opportunity shall be given for the introduction of evidence in rebuttal thereof. (Amended, Stats. 1913, p. 996.)

Sufficiency of petition and genuineness of signatures to be determined by board of supervisors.

Imperial Water Co. vs. *Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709;
Rich vs. *Connelly*, 52 Cal. App. 556, 199 Pac. 540.

Finding of Board to Be Conclusive

SEC. 4. A finding of the board of supervisors in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the State of California upon suit commenced by the Attorney General. Any such suit must be commenced within one year after the order of the board of supervisors declaring such district organized as herein provided, and not otherwise. (Amended, Stats. 1911, extra session, p. 139.)

Former section 4 providing for appeal to superior court held unconstitutional.
Chinn vs. *Superior Court*, 156 Cal. 478, 105 Pac. 580.

Certiorari.
Imperial Water Co. vs. *Board of Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 209 Pac. 304.

Conclusiveness of order.
Fallbrook Irr. Dist. vs. *Bradley*, 164 U. S. 112, 171;
People vs. *Hagar*, 52 Cal. 171–182;
Miller & Lux vs. *Board of Sup'rs*, *supra*;
Board of Directors vs. *Tregea*, 88 Cal. 335, 26 Pac. 237;
In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
O'Neill vs. *Yellowstone Dist.* (Mont.), 121 Pac. 283;
Progressive Irr. Dist. vs. *Smith* (Idaho), 156 Pac. 1133;
Board of Directors vs. *Peterson* (Ore.), 129 Pac. 123;
Links vs. *Anderson* (Ore.), 168 Pac. 605;
Herrett vs. *Warm Springs Dist.* (Ore.), 168 Pac. 609;
Andrews vs. *Lillian Irr. Dist.* (Nebr.), 97 N. W. 336;
Sowerwine vs. *Central Dist.* (Nebr.), 124 N. W. 119;
Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171.

Statute of limitations.
(See Sec. 72, *infra*.)
In re Central Irr. Dist., 117 Cal. 382, 49 Pac. 354;
People vs. *Perris Irr. Dist.*, 142 Cal. 601, 76 Pac. 381;
Miller vs. *Perris Irr. Dist.*, 85 Fed. 693;
Tulare Irr. Dist. vs. *Shepard*, 185 U. S. 1, 18.
Progressive Irr. Dist. vs. *Anderson* (Idaho), 114 Pac. 16–18.

Bona fide attempt to organize followed by user.
Tulare Irr. Dist. vs. *Shepard*, 185 U. S. 1.

District Divisions and Election of Directors

SEC. 5. If, on said final hearing, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth and fifth, and one director shall be elected for each division by the electors thereof; provided, that if so requested in said petition, the board may order that there shall be only three divisions in said district, and that only three directors be elected, and that the directors may be elected by the district at large, or by divisions, as such petition shall provide, but in any event such directors shall be elected to represent separate divisions and shall be residents of the respective divisions they are elected to represent. (Amended, Stats. 1915, p. 1368.)

Cullen vs. *Glendora Water Co.*, 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Abbey vs. *Board of Directors*, 58 Cal. App. 757, 209 Pac. 709.

ELECTION ON ORGANIZATION

Call and Notice for Election; Ballots

SEC. 6. Said board of supervisors shall then call and cause notice to be given of an election to be held in such proposed district, for the

purpose of determining whether or not the same shall be organized under the provisions of this act, and to elect persons to fill the offices of said proposed district in case it shall be organized. Such notice shall describe the boundaries so established and shall designate a name for the proposed district, and specify the offices for which candidates may be voted for at said election. Said notice shall be published three times, to wit, once a week for three weeks, previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented; and if any portion of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of said counties. For the purposes of said election the board of supervisors must establish a convenient number of election precincts in said proposed district, and define the boundaries of the same. Election officers for said election shall be appointed, candidates for the offices of said proposed district shall be nominated, ballots and other supplies shall be provided and such election shall be conducted as nearly as practicable in accordance with the provisions of this act concerning general irrigation district elections, unless herein otherwise particularly provided, excepting, however, that the board of supervisors shall act in place of the board of directors and the clerk of the board of supervisors shall act in place of the secretary of the board of directors. On the ballots provided for said election shall be printed a proposition substantially as follows: "Shall the proposed_____ irrigation district be organized?" followed by the words "Yes" and "No," with voting space thereafter. No informalities in the conduct of said election or in any matters relating thereto shall invalidate said election or the result thereof if notice thereof shall have been given substantially as herein provided and said election shall have been fairly conducted. (Amended, Stats. 1931, p. 123.)

Imperial Water Co vs. *Board of Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825;
Cullen vs. *Glendora Water Co.*, 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Links vs. *Anderson* (Ore.), 168 Pac. 1182;
Ells vs. *Board of Sup'rs*, 38 Cal. App. 480, 176 Pac. 709;
Covell vs. *Lee*, 71 Cal. App. 361, 235 Pac. 79;
Abbey vs. *Board of Directors*, 58 Cal. App. 757, 209 Pac. 709.

Elective Officers

SEC. 7. At such election there shall be elected a board of directors, and an assessor, collector, and treasurer; provided, that where a consolidation of officers as hereinafter provided for is deemed advisable in the organization of a district, the petitioners may request in their petition for organization such consolidation, and the board of supervisors calling the election shall in its order therefor announce such consolidation, and then only one person shall be elected to fill the several offices so consolidated. (Amended, Stats. 1929, p. 686.)

Qualifications of Electors

SEC. 8. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the State.

It is immaterial that nonresident landowners within the district are excluded from voting.

In re Madera Irr. Dist., 92 Cal. 321, 28 Pac. 272, 675.

Exercise of suffrage within district is not limited by constitutional provisions re exercise of franchise.

Potter vs. *Santa Barbara*, 160 Cal. 349; 116 Pac. 1101;
Tarpey vs. *McClure*, 190 Cal. 593, 213 Pac. 983;
Barber vs. *Galloway*, 195 Cal. 1, 231 Pac. 34.

Canvass of Votes

SEC. 9. The board of supervisors shall meet on the second Monday succeeding such election, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that a majority of all the votes cast are "Irrigation District—Yes," said board shall, by an order entered on its minutes declare the territory duly organized as an irrigation district, under the name theretofore designated, and shall declare the persons receiving respectively the highest number of votes at said election to be duly elected. (Amended, Stats. 1919, p. 718.)

Imperial Water Co. vs. *Board of Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Progressive Irr. Dist. vs. *Anderson* (Idaho), 114 Pac. 16.

Order to Be Filed With County Recorder

SEC. 10. Said board shall then cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last-mentioned counties, and no board of supervisors of any county in which any portion of the lands embraced in such district are situated shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of such district shall be complete.

Courts have no power to dissolve an irrigation district in the absence of statutory authority.

People vs. *Selma Irr. Dist.*, 98 Cal. 206, 32 Pac. 1047.

When the organization of the district has been declared by order of the board of supervisors, the order is notice to its inhabitants and to the world of its existence and of its boundaries.

Fogg vs. *Perris Irr. Dist.*, 154 Cal. 209, 97 Pac. 316;
Progressive Irr. Dist. vs. *Anderson* (Idaho), 114 Pac. 16.

Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223.

Election Contest; Appeal to Supreme Court

SEC. 11. Such election on organization may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; provided, that if more than one contest be pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest must be brought within twenty days after the canvass of the vote and declaration of the result by the board of supervisors. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

Tenure of Office

SEC. 12. The officers elected at the election hereinbefore provided for shall immediately enter upon their duties as such, upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively until their successors are elected and qualified.

Officers of irrigation district are public officers.

In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
People vs. *Selma Dist.*, 98 Cal. 206, 32 Pac. 1047;
Perry vs. *Otay Irr. Dist.*, 127 Cal. 565, 60 Pac. 40;
Reel. Dist. vs. *Superior Court*, 171 Cal. 672, 154 Pac. 845;
Rose vs. *Superior Court*, 80 Cal. App. 739, 252 Pac. 765;
Fallbrook Irr. Dist. vs. *Bradley*, 164 U. S. 171, 41 L. ed. 394, 17 Sup. Ct. 69.

DUTIES AND POWERS OF THE BOARD OF DIRECTORS

Organization

SEC. 13. The directors of any district created after the passage of this act, on the first Tuesday after they have been elected and after they shall have qualified, shall meet and classify themselves by lot into two classes as nearly equal in number as possible, and the term of office of the class having the least number shall expire at noon on the first Tuesday in March of the next odd-numbered year after the year in which said meeting is held, and the term of office of the class having the greater number shall expire at noon on the first Tuesday in March of the second odd-numbered year after the year in which said meeting is held. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors. (Amended, Stats. 1927, p. 186.)

Board of Directors have no power to appoint their own members as secretary or superintendent.

Interstate Trust Co. vs. *Steele* (Colo.), 173 Pac. 873–5.

As to power of director to act on own claims, see

Reclamation Dist. vs. *McCullah*, 124 Cal. 175, 56 Pac. 887.

Monthly Meetings; Quorum

SEC. 14. The board of directors shall hold a regular meeting on the first Tuesday of each month at the place selected as the office of the board; provided, that the board may, by resolution duly entered upon its minutes, fix any other time as the time for its regular monthly meeting, but no change in the time of holding regular meetings of the board shall be made until after the resolution proposing such change has been published once a week for two successive weeks in a newspaper published in the county in which the office of the district is kept. Such special meetings of the board of directors may be held as may be required for the proper transaction of the business of the district, but a special meeting must be ordered by a majority of the board. The order must be entered of record, and five days notice thereof must by the secretary be given to each director not joining in the order. The order must specify the business to be transacted, and no other business than that specified in the order may be transacted at such special

meeting, unless all the members are present and consent to the consideration of any business not specified in said order. All meetings of the board must be public and three members shall constitute a quorum for the transaction of business; provided, however, that when the board consists of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote, except a motion to adjourn or a motion to adjourn to a stated time, there shall be a concurrence of at least the number constituting a quorum. A smaller number of directors than a quorum may adjourn from day to day. All records of the board shall be open to public inspection during business hours. Whenever any act is required to be done or proceeding taken by this act, or by an act supplemental or amendatory thereto, on the first Tuesday in any month, such act may be done or proceeding had upon the day specified in the resolution hereinbefore referred to as the time for the regular meeting of the board of directors; provided, also, that when a day other than the first Tuesday in the month shall have been specified as the time for the regular meeting of the board of directors, thereafter the newly elected officers of the district shall take office at noon on the day fixed for the regular monthly meeting of said board in March and said board shall meet for reorganization and the transaction of any other business of the district in the afternoon of said day. (Amended, Stats. 1917, p. 755.)

Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113.

Publication of Financial Condition

SEC. 14a. The board of directors at their regular monthly meeting in January of each year shall render and immediately thereafter cause to be published a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some newspaper published in the county where the office of the board of directors of such district is situated. (Added, Stats. 1917, p. 756.)

General Powers and Duties of Directors

SEC. 15. The board of directors shall have the power and it shall be their duty to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties.[1] The board and its agents and employees shall have the right to enter upon any land and make surveys, and may locate the necessary irrigation works and the line for canal or canals, and the necessary branches for the same on any lands which may be deemed best for such location. Said board shall also have the right to acquire, by purchase, lease, contract, condemnation,[2] or other legal means, all lands, and waters, and water rights, and other property necessary for the con-

[1] Section 7 of the Workmen's Compensation, Insurance and Safety Act of 1917 (as amended by Stats. 1919, p. 913) provided that the term "employer" as used in the act, shall be construed to include irrigation districts.

[2] For power of district to take immediate possession of right of way in eminent domain proceedings, see Art. I, Sec. 14, of the Constitution.

struction, use, supply, maintenance, repair and improvements of said canal, or canals, and works, whether in this or in other States[3] or in a foreign nation, including canals, and works constructed and being constructed by private owners,[4] lands for reservoirs for the storage of needful waters, and all necessary appurtenances, and also, where necessary or convenient to said ends and for said uses and purposes, to acquire and hold the stock of corporations, domestic or foreign,[5] owning waters, water rights, canals, waterworks, franchises, concessions or rights. Said board may enter into, and do any acts necessary or proper for the performance of any agreements with the United States[6] or any State, county, district of any kind, public or private corporation, association, firm or individual, or any number of them,[7] for the joint acqui-

[3] For regulations governing agreements with irrigation districts in adjoining states, see supplementary act of 1917 (Stats. 1917, p. 905).

[4] The procedure before the Railroad Commission for the valuation of the property of a public utility in condemnation proceedings instituted by a district is prescribed in sections 47 and 70 of the Public Utilities Act (as amended by Stats. 1917, p. 261).

[5] Districts are given authority to acquire the stock of any foreign corporation owning a system in a foreign country by Art. IV, Sec. 31, of the Constitution.

[6] Authority to enter into agreements with the United States government under the federal reclamation laws is given by Stats. 1917, p. 243. Supplementary powers are also given by Stats. 1907, p. 569, providing for drainage by districts, and Stats. 1913, p. 75, permitting the employment of agricultural experts by districts.

[7] See Art. IV, Sec. 31, of the Constitution.

As to liability of district for preorganization expenses, see

Ser-vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223;
Biggart vs. *Lewis*, 183 Cal. 660, 192 Pac. 437;
Wilbur vs. *Tia Juana Irr. Dist.*, 94 Cal. App. 511, 271 Pac. 514.

Mandamus will not issue to compel an irrigation district to construct canals, etc., where it is not shown that it has available funds.

Nelson vs. *Anderson-Cottonwood Irr. Dist.*, 51 Cal. App. 92, 196 Pac. 292.

An irrigation company can obtain right to run waste water by an executed oral license.

Imperial Water Company vs. *Wores*, 29 Cal. App. 253, 155 Pac. 124.

Liability for seepage where right of way granted or condemned.

Groff vs. *Reclamation Dist.* 108, 97 Cal. App. 22, 274 Pac. 993;
Sternes vs. *Sutter-Butte Canal Co.*, 61 Cal. App. 737, 216 Pac. 66;
Yolo Water & Power Co. vs. *Hudson*, 182 Cal. 48, 186 Pac. 772;
Sutro Heights, etc Co. vs. *Merced Irr. Dist.*, 81 Cal. Dec. 346, 296 Pac. 1088;
Edmunds vs. *Glenn-Colusa Irr. Dist.*, 85 Cal. Dec. 218;
Spurrier vs. *Mitchell Irr. Dist.*, 74 A. L. R. 884

"Property necessary" includes pipe line.

Rialto Irr. Dist vs. *Brandon*, 103 Cal. 384, 37 Pac. 484.

The mode, time and manner of executing the powers granted by this section are found in sections 30, 30a, 37, 39, 55, 59 and 61.

Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100.

District liable for negligence of employees in operating power plant.

Yolo vs. *Modesto Irr. Dist.*, 216 Cal. 274.

Districts may be required to install fish screens.

People vs. *Glenn-Colusa Irr. Dist.*, 127 Cal. App. 30.

Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore.), 211 Pac. 781;
Danley vs. *Merced Irr. Dist.*, 66 Cal. App. 97, 226 Pac. 847;
Crawford vs. *Imperial Irr. Dist.*, 200 Cal. 318, 253 Pac. 726;
Kelsey vs. *Madera Irr. Dist.*, 66 Cal. App. 113, 226 Pac. 853;
San Diego vs. *La Mesa, L. G. & S. V. Irr. Dist.*, 63 Cal. App. Dec. 777, 292 Pac. 1182;
Lindsay-Strathmore Irr. Dist. vs. *Wutchumna Water Co.*, 64 Cal. App. Dec. 578, 296 Pac. 933;
Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
Woods vs. *Baxter Creek Irr. Dist.*, 25 Fed. (2d) 296.

Chap. 447, Statutes of 1933, amends the Fish and Game Code and provides that one-half of the cost of the installation of fish screens shall be paid by the Fish and Game Commission, except in case of "any person, firm or corporation engaged in producing, generating, transmitting, delivering or furnishing electricity for light, heat or power."

sition, construction, leasing ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might lawfully be acquired or owned by the irrigation district, and may acquire the right to store water in any reservoirs or to carry water through any canal, ditch or conduit not owned or controlled by the district, and may grant to any owner or lessee of the right to the use of any of any water the right to store such water in any reservoir of the district or to carry such water through any canal, ditch or conduit of the district. Said board may also enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them, for the transfer or delivery to any such district, corporation, association, firm or individual, of any water right or water pumped, stored, appropriated, or otherwise acquired or secured for the use of the irrigation district or for the purpose of exchanging the same for other water or water right or water supply in exchange for water or water right or water supply to be delivered or transferred to said irrigation district by the other party to said agreement.[8] (Amended, Stats. 1927, p. 23.)

---

[8] The 1927 act amending section 15 also contained the following:

SEC. 2. This act is hereby declared to be an urgency measure within the meaning of section 1 of article IV of the constitution of the State of California, and shall take effect immediately.

The following is a statement of facts constituting such urgency:

The people of the State of California, at the general election held in said state on the second day of November, 1926, duly approved and ratified an amendment to section 31 of article IV of the constitution of the State of California, whereby irrigation districts were authorized and empowered, for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, to acquire and hold the stock of corporations owning waters, water rights, canals, water works, franchises or concessions, subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporations; that the power of the electors of irrigation districts to authorize, at a special election called therefor, the levy of special assessments and the power of the board of directors of such districts to levy special assessments authorized at such election, is limited by the provisions of said California irrigation district act to the raising of money to be applied to any of the purposes, now expressed or specified in said act or any act supplementary thereto; that it is necessary to make said act conform to the provisions of section 31 of article IV of the constitution in so far as the same relate to irrigation districts, in order that said districts may be empowered to raise money by special assessments to be applied to the purchase of stock in water corporations for the purposes expressed in said constitutional provision; that it is necessary for the uses and purposes of some of the irrigation districts organized and now existing under the laws of this state, that they should immediately acquire stock in water corporations in order to make water available for the irrigation of lands within their boundaries at the earliest possible moment, and for domestic uses; that unless such water can be acquired and used for said purposes during the irrigation season of 1927, irreparable injury may be suffered by the owners of land situate therein and the inhabitants thereof; that unless this act goes into effect as an emergency measure, it can not take effect until ninety days from and after the adjournment of the present session of this Legislature, and the effective date thereof will be thereby postponed until the month of August or September of this year at which time the flow of streams of California will be reduced to a minimum and no water will be available for irrigation purposes; that the public peace and safety require that this act shall go into immediate effect.

Irrigation district may sue and be sued.

Bochmer vs. *Big Rock Irr. Dist.*, 117 Cal. 19, 48 Pac. 908;
Peters vs. *Union Gap Irr. Dist.* (Wash.), 167 Pac. 1085;
Danley vs. *Merced Irr. Dist. et al.*, 66 Cal. App. 97, 226 Pac. 847;
Noon vs. *Gem Irr. Dist.*, 205 Fed. 402.

Power of directors to make contracts.

Board of Directors vs. *Peterson* (Ore.), 128 Pac. 837;
Colburn vs. *Wilson* (Idaho), 130 Pac. 381;
Hansen vs. *Kittitas Dist.* (Wash.), 134 Pac. 1083;
Warm Springs Irr. Dist. vs. *Pacific Live Stock Co.* (Ore.), 173 Pac. 265.

Directors not liable for nondelivery of water.

Nisson vs. *Coult*, 96 Cal. App. 611, 274 Pac. 603;
Nisson vs. *Cordua Irr. Dist.*, 204 Cal. 542, 269 Pac. 171.

Directors not liable for negligence.

Hilton vs. *Oliver*, 204 Cal. 545, 269 Pac. 425;
Whiteman vs. *Anderson-Cottonwood Irr. Dist.*, 60 Cal. App. 234, 212 Pac. 706;
Western Assurance Co. vs. *Drainage Dist.*, 72 Cal. App. 76, 237 Pac. 59.

District not liable for negligence of agents and employees.

Whiteman vs. *Anderson-Cottonwood Irr. Dist.*, 60 Cal. App. 234, 212 Pac. 706;
Morrison vs. *Smith Bros.*, 80 Cal. Dec. 571, 293 Pac. 53.
(See also 69 A. L. R. 1225).

Woods vs. *Baxter Creek Irr. Dist.*, 25 Fed. (2d) 296.

Regulation of Seepage

SEC. 15a. The board of directors, when they deem it advisable for the best interests of the district, may regulate the amount of water in use or to be used for the purpose of irrigating crops on lands within the district when the seepage from such irrigation would damage adjacent lands or it may require, as a condition precedent to the delivery of water, the construction of adequate drainage facilities to prevent damage to adjacent lands. The board shall have power to make the necessary rules and regulations to carry out the provisions of this act.[1] (Added, Stats. 1933, p. 1125.)

Construction of District Works; Service to Lands of Mutual Water Companies

SEC. 15b. The board of directors of any irrigation district may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each landowner in said district for irrigation and domestic purposes; provided, that where, within irrigation districts mutual water companies have been organized to furnish water to certain specified lands within said districts, the board of directors of such districts are hereby authorized and empowered to contract for the delivery of water for such lands as lie within the boundary of said water companies, through said mutual water companies only. The said board is hereby authorized and empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits or proceedings, the said board may sue, appear and defend in person or by attorneys, and in the name of such irrigation district. (Added, Stats. 1917, p. 758.)

---

[1] Chapter 434, Statutes of 1933, which added section 15a, also contained the following urgency clause:

SEC. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall go into effect immediately.

The following is a statement of the facts constituting such necessity: In certain irrigation districts at the present time large quantities of water are being held on land for a long period of time for the purpose of raising and maturing crops. Such water seeps and percolates to the adjacent land, forming stagnant pools thereon, which are a menace to health, injuring growing crops and causing the lands to become unfit for cultivation and habitation. This act enables the board of directors of an irrigation district to remedy such conditions and should go into effect immediately.

Right to contract with mutual water company to deliver water to district sustained under Idaho statute.

Pioneer Irr. Dist. vs. *Stone* (Idaho), 130 Pac. 382.

Districts may purchase mutual water company stock.

Lindsay-Strathmore Irr. Dist. vs. *Wutchumna Water Co.*, 64 Cal. App. Dec. 578, 296 Pac. 933.

Crawford vs. *Imperial Irr. Dist.*, 200 Cal. 318, 253 Pac. 726.

Irrigation district assumed duty to serve water in purchase of system from public utility.

Henderson vs. *Oroville-Wyndotte Irr. Dist.*, 207 Cal. 295;
Henderson vs. *Oroville-Wyndotte Irr. Dist.*, 213 Cal. 514;
San Diego vs. *La Mesa etc. Irr. Dist.*, 109 Cal. App. 280.

Rules for Use of Water

SEC. 15c. It shall be the duty of the board of directors of any irrigation district to establish equitable by-laws, rules and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. (Added, Stats. 1917, p. 758.)

General and implied powers.

City of Nampa vs. *Nampa etc. Dist.* (Idaho), 131 Pac. 8;
Stevens vs. *Melville* (Utah), 175 Pac. 602–4.

Power to make and enforce rules.

Hamp vs. *State* (Wyo.), 118 Pac. 653, 662;
La Mesa Community Ditch vs. *Appelzoeller* (N. Mex.), 140 Pac. 1051.
(See also Sec. 18 hereof.)

As to right to cut off water because of nonpayment of bills, see note, 28 A. L. R. 472.

Duty of water.

Joerger vs. *Mount Shasta etc. Co.*, 207 Cal. 8, 276 Pac. 1017.

Crawford vs. *Imperial Irr. Dist.*, 200 Cal. 318, 253 Pac. 726;
Nelson vs. *Anderson-Cottonwood Irr. Dist.*, 51 Cal. App. 92, 196 Pac. 292;
San Diego vs. *La Mesa, L. G. & S. V. Irr. Dist.*, 63 Cal. App. Dec. 777, 292 Pac. 1082.

Change of Divisions or Election Precincts; Canals and Works May Be Leased

SEC. 15d. The board of directors, when they deem it advisable for the best interests of the district, and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions or election precincts of the district or of both; provided, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the divisions and precincts must be shown on the minutes of the board. The board of directors of any irrigation district now or that may hereafter be organized in the State, shall also have the power, and such board is hereby vested with the authority, to lease the system of canals and works in the district, or any part thereof, whenever such leasing may be for the benefit of the district; provided, that when the directors of any irrigation district contemplate the leasing of the canals and works of such district, they shall give notice of such contemplation by publishing the same in some newspaper published in the county in which such irrigation district lies, at least three weeks prior to the making of any lease, and such lease shall be made to the highest bidder. But such board shall have the right to reject any and all such bids. Such lease

shall in no way interfere with any rights that may have been established by law, at the time such lease is made; and, further provided, that the board of directors shall require a good and sufficient bond to secure faithful performance of the lease by the lessees. (Added, Stats. 1917, p. 758.)

Lease or transfer of property.

Byington vs. *Sacramento etc. Co.*, 170 Cal. 124, 148 Pac. 791;
McKim vs. *Imperial Irr. Dist.*, 201 Cal. 110, 255 Pac. 506.

Special Accounts May Be Established from General Fund

SEC. 15e. The board of directors may by resolution establish special accounts from the general fund as may be necessary or convenient in the efficient and economical operation of the district and designate the person or officer to have custody of the several accounts so established and fix bond for the faithful discharge of their several duties, the cost of which bond may be paid by the district. Such special accounts shall severally be supplied from the general fund by warrant as provided by section 54, the same as in payment of any other claim against the district. The person in custody of any of said accounts shall make to the board a verified report in writing between the first and tenth of each month showing the amount of money received by him for said account since the last report and the amount and items of expenditures therefrom; said report shall be filed with the secretary of the board. No payment shall be made from any of said accounts except upon the written order of the person or one of the persons designated for the purpose by the board indicating in said order the purpose for which and the person to whom payment is to be made and with the approval in writing of the person or one of the persons designated for the purpose by the board. (Added, Stats. 1931, p. 1661.)

SEC. 15½. (Renumbered as section 15d by Stats. 1917, p. 758.)

Condemnation Proceedings

SEC. 16. In case of condemnation proceedings the board shall proceed, in the name of the district, under the provisions of title VII, part III of the Code of Civil Procedure of the State of California, and all pleadings, proceedings, and process in said title provided shall be applicable to the condemnation proceedings hereunder. (Amended, Stats. 1917, p. 759.)

Condemnation procedure.

Warm Springs Irr. Dist. vs. *Pacific Live Stock Co.* (Ore.), 173 Pac. 265.

Owner estopped to claim subsequent damages for seepage from right of way granted or condemned.

Sternes vs. *Sutter-Butte Canal Co.*, 61 Cal. App. 737, 216 Pac. 66;
Groff vs. *Recl. Dist.*, 97 Cal. App. 22, 274 Pac. 993;
Yolo Power, etc. Co. vs. *Hudson*, 182 Cal. 48, 186 Pac. 772;
Sternes vs. *Sutter-Butte, etc. Co.*, 99 Cal. App. 465, 278 Pac. 921;
Sutro Heights, etc. Co. vs. *Merced Irr. Dist.*, 81 Cal. Dec. 316, 296 Pac. 1088;
Edmunds vs. *Glenn-Colusa Irr. Dist.*, 85 Cal. Dec. 218.

Directors liable for unauthorized trespass—constitutional procedure must be followed.

Newberry vs. *Evans*, 76 Cal. App. 492, 245 Pac. 227; 97 Cal. App. 120, 275 Pac. 465.

Power to condemn canals and water rights of irrigation district for more necessary public use, queried.

Colburn vs. *Wilson* (Idaho), 130 Pac. 381;
Mono Power Co. vs. *Los Angeles*, 284 Fed. 784;
San Diego ve. *Cuyamaca W. Co.*, 209 Cal. 152, 287 Pac. 496;
East Bay Municipal Utility Dist. vs. *Railroad Com.*, 194 Cal. 603, 229 Pac. 949;
Turlock Irr. Dist. vs. *Sierra, etc. Co.*, 69 Cal. App. 150, 230 Pac. 671;
East Bay Municipal Utility Dist. vs. *Lodi*, 120 Cal. App. 740.

Districts not liable for seepage damage after delivery of water to lands.

Spurrier vs. *Mitchell Irr. Dist.*, 74 A. L. R. 884.
Middlekamp vs. *Bessmer*, 103 Pac. 208, 23 L. R. A. (N. S.) 801.

Showing of necessity.

Rialto Irr. Dist. vs. *Brandon*, 103 Cal. 384, 37 Pac. 484.

Taking possession before judgment. Const., Art. I, Sec. 14.

Marblehead Land Co. vs. *Superior Court*, 69 Cal. App. 72, 230 Pac. 468.

WATER REGULATIONS

Use of Water a Public Use

SEC. 17. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, or the act of which this is supplementary or amendatory, and for domestic and other incidental and beneficial uses, within such district,[1] together with the rights of way for canals and ditches,[2] sites for reservoirs, and all other property required in fully carrying out the provisions of this act is hereby declared to be a public use, subject to the regulation and control of the State, in the manner prescribed by law. (Amended, Stats. 1911, p. 512.)

Apportionment of Water; Lease or Sale of Surplus Water

SEC. 18. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each landowner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; and any landowner may assign the right to the whole or any portion of the waters so apportioned to him; or the board of directors of said district may, if they deem it for the best interest of the district, enter into a contract for the lease or sale of any surplus water, or the use of such water, not then necessary for use within the said district for any lawful purposes, for use either within or without the district; provided, however, that no right in such or any water owned by the district shall thereby be acquired by user; and provided, further, that nothing in this section shall be construed as authorizing the sale of any water right. Provided, further, that when any rates of toll and charges for the use of water are fixed by the board of directors, as provided in section 55 of this act, the water for the use of which such rates of toll and charges have been fixed, shall be distributed equitably, as may be provided by the board of directors, among those offering to make the required payment therefor; and provided, further, that if an irrigation district has contracted to deliver, and is delivering, water to

[1] See Art. XIV, Sec. 1, of the Constitution, declaring use of water a public use. Also, see, "An act regarding irrigation and declaring the same to be a public use," approved May 1, 1911, Stats. 1911, p. 1407.

[2] For power of district to take immediate possession of right of way in eminent domain proceedings, see Art. 1, Sec. 14, of the Constitution.

mutual water companies for distribution to territory served thereby, the water shall be appropriated on such a basis as the board of directors shall find to be just and equitable and for the best interests of all parties concerned. Any lease or contract entered into for a period of more than one year shall not be valid unless approved by the California Bond Certification Commission. (Amended, Stats. 1929, p. 657.)

Waterford Irr. Dist. vs. *Modesto Irr. Dist.*, 127 Cal. App. 544.

District can not distribute its water outside of its boundaries.
Jennison vs. *Redfield*, 149 Cal. 500, 87 Pac. 62;
Glenn-Colusa Irr. Dist. vs. *Paulson*, 75 Cal. App. 57, 242 Pac. 494.

Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
Hewitt vs. *S. J. and P. V. Irr. Dist.*, 124 Cal. 186, 56 Pac. 893;
Merchants, etc. Bank vs. *Escondido Seminary*, 144 Cal. 329, 77 Pac. 937;
Jennison vs. *Redfield*, *supra*;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Nelson vs. *Anderson-Cottonwood Irr. Dist.*, 51 Cal. App. 92, 196 Pac. 292;
San Diego vs. *La Mesa L. G. & S. V. Irr. Dist.*, 63 Cal. App. Dec. 777, 292 Pac. 1082;
Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
Western Union Tel. Co. vs. *Modesto Irr. Dist.*, 149 Cal. 662, 87 Pac. 190.
See also, Sec. 15c hereof.

California Districts Securities Commission succeeds to powers and duties of Board Certification Commission, *supra*, p. 38.

ELECTIONS AND ORGANIZATION

Election of District Officers

SEC. 19. An election, which shall be known as the general irrigation district election, shall be held in each irrigation district on the first Wednesday in February in each odd-numbered year, at which a successor shall be chosen to each officer whose term will expire in March next thereafter. The person receiving the highest number of votes for each office to be filled at such election shall be elected thereto. The elective officers of an irrigation district shall be as many directors as there are divisions in the district, and an assessor, a collector and a treasurer; provided, that if any two or more offices shall have been consolidated as provided in section 7 or section 27 hereof, only one person shall be elected to fill such consolidated offices. The term of office of each elective officer of an irrigation district shall be four years, except as provided in section 13 of this act and except that the terms of office of the assessor, collector, and treasurer elected at the time of the organization of any district shall expire at the same time as the terms of the directors of the class having the greater number as provided in said section 13, but the expiration of the term of any officer shall not create a vacancy in his office, but he shall hold office until his successor shall have qualified. (Amended, Stats. 1927, p. 187.)

N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore.), 211 Pac. 781.

Official Bonds

SEC. 19a. Within twenty days after receiving their certificates of election hereinafter provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of one hundred thousand

dollars; each of said bonds to be approved by the board of directors; provided, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit the conditions of the district, the maximum amount of the treasurer's bond not to exceed one hundred thousand dollars, and the minimum amount thereof not to be less than five thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount of the collector's bond not to be less than five thousand dollars. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers and the premiums thereon may be paid by the district; provided, that in case any district organized under this title is appointed fiscal agent of the United States or by the United States in connection with any Federal reclamation project, each of said officers shall execute a further and additional official bond in such sum as the Secretary of the Interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization, and any such bond may be sued upon by the United States or any person injured by the failure of such officer or the district to fully, promptly and completely perform their respective duties. (Amended, Stats. 1933, p. 569.)

Form and condition of official bond.
Political Code, sections 954, 958.

Vacancy created by failure of officer to qualify.
Political Code, section 996, subdivision 9.

Consolidated offices require separate bonds.
Turlock Irr. Dist. vs. *Edwards,* 205 Cal. 320, 270 Pac. 936.

Petition for Special Election

SEC. 19b. If an election is not held as herein provided, then upon the filing of a petition with the secretary of the board of directors of such district, signed by ten per cent of the electors residing within the boundaries of any such irrigation district, requesting that a special election be called for the election of such officers, the directors of such district shall thereupon call a special election thereof for the election of such officers, such election to be held within not less than fifteen, nor more than thirty days after the filing of such petition. The officers elected at such special election shall each take office as soon as they shall have been declared elected and shall have qualified. (Amended, Stats. 1927, p. 187.)

Appointment of Board of Directors and Other Officers

SEC. 19c. Whenever a verified petition, signed by the owners of a majority of the land in an irrigation district shall be filed with the board of supervisors of any county in which such irrigation district or

the greater part thereof is situated, showing that no more than five owners of land in the district are residents and electors thereof, and that no general irrigation district election was held in the district at the last date fixed for such election by section 19 of this act, said board of supervisors shall set a date for the hearing of such petition, which date shall be not less than ten days nor more than thirty days from the presentation thereof to said board, and shall give notice of said hearing by publication in at least two issues of a newspaper published in the county in which said board of supervisors has its office. At said hearing, if the facts alleged in said petition be established to the satisfaction of said board of supervisors, said board shall so find by resolution and shall then appoint for said district a board of directors to consist of three owners of land within said district, who need not be residents thereof. The directors so appointed shall take office as soon as they shall have qualified in accordance with the provisions of this act, and shall hold office until their successors are appointed and qualified or until an election is duly called and held as provided for in this act. Upon their organization as a board, they shall fill by appointment the offices of treasurer, collector and assessor, and none of the persons so appointed need be residents or landowners within the district. (Added, Stats. 1929, p. 257.)

Organization of Board

SEC. 20. At noon of the first Tuesday in March next following their election, except as provided in section 14 of this act, the officers who shall have been elected at the preceding general irrigation district election shall enter upon the duties of their respective offices. On the first Tuesday in March next following each election, the directors shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. (Amended, Stats. 1917, p. 761.)

Notice of Elections; Election Boards

SEC. 21. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector, two judges and two clerks, or at their option one inspector, one judge and one clerk, who shall in either case constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour, may appoint the board, or supply the place of an absent member thereof. The board of directors, must, in its order appointing the board of election, desig-

nate the house or place within the precinct where the election must be held. (Amended, Stats. 1921, p. 860.)

Election may be held on a holiday.
People vs. *Loyalton*, 147 Cal. 774, 82 Pac. 434.

Conduct of Election

SEC. 22. The inspector is chairman of the election board and may administer all oaths required in the process of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk ceases to act. Any member of the board of election may administer and certify oaths required to be administered during the progress of an election. Before opening the polls, each member of the board must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any electors of the precinct may administer and certify such oath. The polls must be opened at six a.m. on the morning of the election, and be kept open until seven p.m., when the same must be closed; provided, however, the board of directors may in the notice of election as provided in section 21 of this act provide that the polls shall be open from eight a.m. to four p.m., at which times the polls shall be opened and closed respectively. (Amended, Stats. 1921, p. 860.)

Opening and closing polls.
Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 793.

Ballots; Manner of Voting

SEC. 22a. The ballot used at the election shall be provided by the board of directors, and one of the clerks of election shall deliver, to each of the electors, one of the ballots so provided. The ballots shall have printed on them the names of all candidates whose names have been filed as provided in this act, with a voting square behind each name. The names shall be arranged in groups, alphabetically, under the designation of the office for which each person named is a candidate. Where more than one person is to be elected for an office of the same title, the words "Vote for — — (inserting the proper number)" shall be printed under the title of the office. Each elector shall stamp a cross, with a rubber stamp to be provided by the board of directors, in the square behind the name of each candidate he wishes to vote for. (Added, Stats. 1909, p. 1062.)

Form of ballot.
Political Code, section 1197, subdivision 8;
Edes vs. *Haley* (Wash.), 162 Pac. 50.

Nominating Petitions

SEC. 22b. Not less than fifteen days before the election, any ten or more electors in the district may file with the board of directors a petition, requesting that certain persons, specified in such petition, be placed on the ballot as candidates for the office named in the petition. The names proposed by the various petitions so filed, and no others, shall be printed on the ballots, but there shall be sufficient blank spaces left in which electors may write other names if they so desire. The petitions shall be preserved in the office of the secretary of the district. (Amended, Stats. 1927, p. 187.)

Voting and Counting of Votes

SEC. 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain open, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws of this State. As soon as all the votes are counted, a certificate shall be drawn upon each of the papers containing the poll lists and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

Right of contest of election of officers elected at irrigation district election.

Hertle vs. *Ball* (Idaho), 72 Pac. 953;
(See also Sec. 72, *infra*.)
Huck vs. *Rathjen*, 66 Cal. App. 84, 225 Pac. 33.

Canvass of Votes

SEC. 24. No list, tally paper, or certificate returned from any election, shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for, and declaring the result thereof.

Canvassing returns and declaring result.

Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 793;
Edes vs. *Holey* (Wash.), 162 Pac. 50.

Record of Results; Filling of Vacancies

SEC. 25. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) The whole number of votes cast in the district, and in each division of the district; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director, and the number of votes given in the district for the offices of assessor, collector, and treasurer. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

In case of a vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment of the board of directors; provided, that if said board of directors shall neglect or refuse to make such appointment within a period of forty days, then the board of supervisors of the county wherein the office of said board of directors is situated shall make such appointment. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of supervisors of the county where the office of such board of directors is situated, from the division in which the vacancy occurred. An appointment to fill a vacancy as above provided shall be for the unexpired term of the office in which the vacancy existed. (Amended, Stats. 1927, p. 188.)

Quinton vs. *Equitable Investment Co.*, 196 Fed. 314;
Drescher vs. *Board of Sup'rs*, 191 Cal. 234, 215 Pac. 902.

Qualification of Director

SEC. 26. A director shall be an elector and a freeholder of the irrigation district and a resident of the division which he is elected to represent. (Amended, Stats. 1929, p. 686.)

The acts of an officer, though not qualified for want of residence within the district, will be regarded as valid acts of an officer *de facto*.

Baxter vs. *Vineland Irr. Dist.*, 136 Cal. 185, 68 Pac. 601;
Oakland Paving Co. vs. *Donovan*, 19 Cal. App. 488, 126 Pac. 388;
Clark vs. *Manhattan Beach*, 175 Cal. 637, 166 Pac. 806.

Right to office can not be questioned collaterally.

In re Danford, 157 Cal. 425, 108 Pac. 322;
People vs. *Ellsus*, 58 Cal. App. 396, 211 Pac. 34;
Baxter vs. *Dickinson*, 136 Cal. 185, 68 Pac. 601; 21 Cal. Jur. 1014.

As to whether candidate must be eligible at time of election, see

Bergevin vs. *Curtz*; 127 Cal. 86, 59 Pac. 312;
Ward vs. *Crowell*, 142 Cal. 587, 76 Pac. 491.

Consolidation of Offices

SEC. 27. The board of directors may, in its discretion, consolidate any two or more of the offices of assessor, collector, and treasurer. The order of consolidation must be made at least thirty days prior to general election of the district, and shall take effect at the next succeeding election; provided, that the board of directors may, at least thirty days

before a general election of the district, where the offices have been consolidated, segregate the same, each office to be filled at such election.

Liability of consolidated offices separate.
Turlock Irr. Dist. vs. *Edwards*, 205 Cal. 320, 270 Pac. 936.

Appointment of Deputies by Treasurer

SEC. 27a. The treasurer and collector of any irrigation district may appoint as many deputies as may be necessary for the prompt and faithful discharge of the duties of his office, said deputies to hold office at the pleasure of the appointing power. Such appointment must be in writing and filed in the office of the board of directors. Every such deputy shall take and file an oath in the manner required of his principal before assuming the duties of his office. (Added, Stats. 1923, p. 632.)

See ante, p. 27, Pol. Code, Sec. 4024
Deputy must be reappointed upon reelection of his principal.
See Hubert vs. *Mendheim*, 64 Cal. 221.

Deposit of Moneys

SEC. 27b. Notwithstanding the provisions of any other law relating to the deposit of public money, any money belonging to an irrigation district organized or existing under this act may be deposited by the treasurer or any officer of such district having legal custody of such money in any State or national bank or banks in this State, and such bank or banks are authorized to accept such deposits and to give security for the same as herein provided, and said district shall receive such rate of interest therefor as may be agreed upon by the officer making such deposit and said bank or banks. Such treasurer or other officer shall require such bank or banks in which such money is deposited to furnish as security for such deposits, bonds of the United States, or of this State or of any county, municipality, school district, metropolitan water district, or irrigation district within this State that are legal investments for savings banks of this State, the market value of which bonds shall at all times be at least ten per cent in excess of the amount of the deposits secured thereby; or in lieu of such bonds such treasurer or said other officers shall be entitled to take as security for such funds so deposited, depositary bonds duly executed and delivered by a surety company duly authorized to do business in the State of California, which depositary bonds shall be and remain in an amount not less than the amount of the funds so deposited and held in said bank or banks. The cost of such depositary bond or bonds may be borne by the district. Such treasurer or said other officers shall not be responsible for any loss of public moneys resulting from the deposit thereof in banks when made in accordance with the provisions of this section but such treasurer shall be chargeable with the safe-keeping, management and disbursement of the bonds deposited with him as security for the deposits of such moneys, and the respective irrigation district shall be responsible for the custody and safe return of any bonds so deposited.[1] (Amended, Stats. 1933, p. 328.)

General act for securing public moneys does not apply to irrigation districts.
Wood vs. *Imperial Irr. Dist.*, 216 Cal. 748.

But see section 16½ of Article XI of the California Constitution, as amended November 8, 1932; and also see Chapter 189, Statutes of 1933.

[1] *See ante*, p. 42, "Deposit of Funds and Security Therefor."

For other cases, see:

Perry vs. *Otay*, 127 Cal. 569;
McGuire vs. *Wentworth*, 120 Cal. App. 340;
Buena Vista Dist. vs. *Shields*, 126 Cal. App. 241;
In re Farmers and Merchants Bank, 213 Cal. 33;
Bank of Oakley vs. *Rainey*, 73 Cal. App. Dec. 315.

Directors, Election for Changing Number Of

SEC. 28. In any district the board of directors thereof must, if a petition therefor signed by a majority of the holders of title or evidence of title to the lands within said district representing a majority in value of said lands shall have been filed in the office of the board at least seventy days before the next ensuing general irrigation district election, make an order that the number of directors in said district shall be changed to three or five, or that the directors shall be elected by the district at large or by divisions, or that both the number of directors and the method of their election shall be thus changed, as may be requested in said petition; or, the board of directors on its own initiative, by resolution adopted not less than fifty days before the next ensuing general irrigation district election, may, and said board must, if a petition therefor signed by at least five hundred holders of title or evidence of title to lands within said district representing at least twenty per cent in value of the lands within said district shall have been filed in the office of the board at least seventy days before the next ensuing general irrigation district election, submit to the qualified electors of the district at said election the question whether the number of directors in said district shall be changed to three or five, or whether the directors shall be elected by the district at large or by divisions, or whether both the number of directors and the method of their election shall be thus changed. If upon the submission of said question at an election as aforesaid, a majority of the electors voting thereon in said district and a majority of the electors voting thereon in each division of a majority of the divisions within said district shall approve the change, or changes, proposed in the proposition submitted, the board of directors shall make an order in accordance with such approval. If an order made by the board of directors as in this section provided shall require a change in the method of electing directors, all directors thereafter elected in said district shall be elected by divisions or by the district at large as may be provided in said order. If such an order shall require a change in the number of directors, the board of directors shall forthwith redivide said district into the number of divisions corresponding to the number of directors specified in said order, and the terms of office of all the directors of the district shall expire on the first Tuesday in March following the next general irrigation district election, and at said election the number of directors designated in said order shall be elected and shall enter upon the duties of their office on the first Tuesday in March next following their election, and shall classify themselves and determine the length of their respective terms in the manner provided in this act in the case of directors elected upon the organization of a district. The provisions of section 1 of this act regarding evidence of the genuineness of signatures and place of residence of petitioners shall apply to the petitions provided for in this section. If a question is submitted to the electors of a district as in this section provided, it shall be stated on the ballot,

and the method of voting thereon shall be, as nearly as practicable in conformity with the provisions of section 30e of this act, and the notice of election shall contain a statement showing what change or changes are proposed in the question thus to be submitted. (Amended, Stats. 1923, p. 83.)

Abbey vs. *Board of Directors*, 58 Cal. App. 757, 225 Pac. 33.

Recall of Officers

SEC. 28½.[1] The holder of any elective office of any irrigation district may be removed or recalled at any time by the electors; provided, he has held his office at least six months. The provisions of this section are intended to apply to officials now in office, as well as to those hereafter elected. The procedure to effect such removal or recall shall be as follows: A petition demanding the election of a successor to the person sought to be removed shall be filed with the secretary of the board of directors of such district, which petition shall be signed by registered voters equal in number to at least twenty-five per cent of the highest vote cast within such district for candidates for the office, the incumbent of which is sought to be removed, at the last general election in such district at which an incumbent of such office was elected, or, in the case of the removal of the incumbent of an office elected by a subdivision of such district, such petition shall be signed by a like percentage of qualified electors of such subdivision computed upon the total number of votes cast in such subdivision for all candidates for the office, the incumbent of which is sought to be removed, at the last general election in such subdivision at which an incumbent of such office was elected; and said petition shall contain a statement of the grounds on which the removal or recall is sought, which statement is intended solely for the information of the electors. Any insufficiency of form or substance in such statement shall in nowise affect the validity of the election and proceedings held thereunder. The signatures to the petition need not all be appended to one paper. Each signer shall add to his signature his place of residence, giving the precinct, and if within a town having named streets and numbered houses, street and number. Each such separate paper shall have attached thereto an affidavit made by an elector of the district and sworn to before an officer competent to administer oaths, stating that the affiant circulated that particular paper and saw written the signature appended thereto; and that according to the best information and belief of the affiant, each is the genuine signature of the person whose name purports to be thereunto subscribed and of a qualified elector of the district. Within ten days from the date of filing such petition, the secretary of the board shall examine and from the records of registration ascertain whether or not said petition is signed by the requisite number of qualified electors, and he shall attach to said petition his certificate showing the result of said examination. If by the said certificate the petition is shown to be insufficient, it may be supplemented within ten days from the date of such certificate, by the filing of additional papers, duplicates of the original petition except as to the names signed. The secretary shall, within ten days after such supplementing papers are filed, make like examination of a supplementing petition, and if a certificate shall show that all the

[1] Removal for cause, see section 73, *infra*.

names to such petition, including the supplemental papers, are still insufficient, no action shall be taken thereon; but the petition shall remain on file as a public record; and the failure to secure sufficient names shall be without prejudice to the filing later of an entirely new petition to the same effect. If the petition shall be found to be sufficient, the secretary shall submit the same to the board of directors without delay, whereupon the board shall forthwith cause a special election to be held within not less than thirty-five nor more than forty days after the date of the order calling such election, to determine whether the voters will recall such officer; provided, that if a general election is to occur within sixty days from the date of the order calling for such election, the board may in its discretion postpone the holding of such election to such general election or submit such recall election at any such general election for officers of such district occurring not less than thirty-five days after such order. If a vacancy occur in said office after a recall petition is filed, the election shall nevertheless proceed as in this section provided. One petition is sufficient to propose a removal and election of one or more elective officials. One election is competent for the removal and election of one or more elective officials. Nominations for any office under such recall election shall be made in the manner prescribed by section 22b of this act.

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall indicate, by stamping a cross (×) his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in said office. If a majority shall vote "Yes," said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The election shall be conducted, canvass of all votes for candidates for said office shall be made and the result declared in like manner as in a regular election within such district. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law. If the vote at any such recall election shall not recall the officer, no further petition for the recall of such

officer shall be filed before the expiration of six months from the date of such first recall election. (Added, Stats. 1911, Extra Session, p. 135.)

This section is constitutional.

Wigley vs. *So. San Joaquin Irr. Dist.*, 31 Cal. App. 162;
(Sec. 1083, Pol. Code, must be read with this section.)
Chambers vs. *Glenn-Colusa Irr. Dist.*, 57 Cal. App. 155, 206 Pac. 773;
Abbey vs. *Board of Directors*, 58 Cal. App. 757, 209 Pac. 709.

TITLE TO PROPERTY

Vesting and Disposition of Property

SEC. 29. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation district, and shall be held by such district, in trust for, and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property, as herein provided. The board of directors may determine by resolution duly entered upon their minutes that any property, real or personal, held by such irrigation district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell such property; and a conveyance of any property held by an irrigation district, executed by the president and secretary thereof, in accordance with a resolution of the board of directors of such district, when sold for a valuable consideration, shall convey good title to the property so conveyed. (Amended, Stats. 1909, p. 1075.)

Hewitt vs. *S. J. and P. V. Irr. Dist.*, 124 Cal. 186;
Merchants Bank vs. *Escondido Seminary*, 144 Cal. 329;
Jennison vs. Redfield, 149 Cal. 500, 87 Pac. 62;
Tulare Irr. Dist. vs. *Collins*, 154 Cal. 440, 97 Pac. 1124;
Lindsay-Strathmore Irr. Dist. vs. *Wutchumna W. Co.*, 64 Cal. App. Dec. 578, 296 Pac. 933.

Irrigation district property exempt from taxation.

Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060;
San Francisco vs. *McGovern*, 28 Cal. App. 491, 152 Pac. 980;
State Land etc. Board vs. *Henderson*, 197 Cal. 470, 241 Pac. 560.

Attention is also called to Sec. 1158, Civil Code, which provides, "that deeds or grants conveying to a political corporation or governmental agency real estate or any interest therein or easements thereon, for public purposes shall not be accepted for recordation without the consent of the grantee, evidenced by its resolution of acceptance attached to such deed or grant."

See *Los Angeles H. S. Dist.* vs. *Quinn*, 195 Cal. 377, 234 Pac. 313, re acceptance required of high school district.

Priorities as between tax deeds of counties, cities, and governmental agencies.

La Mesa etc. Irr. Dist. vs. *Hornbeck*, 216 Cal. 730.
Palo Verde Irr. Dist. vs. *Jamison*, 216 Cal. 740.

ISSUANCE OF BONDS[1]

Estimate of Money Needed for Improvements

SEC. 30. For the purpose of constructing or purchasing necessary irrigation canals and works, and acquiring the necessary property and rights therefor, and for the purpose of acquiring waters, water rights, reservoirs, reservoir sites, and other property necessary for the purposes of said district, and otherwise carrying out the provisions of this act, or any other act under which said district is or may be authorized to

[1] See p. 52, "Financing Waterworks Systems by Sale of Revenue Bonds to the United States."

acquire property or construct works, the board of directors of any such district must, as soon after such district has been organized as may be practicable, and also whenever thereafter the board of directors shall find that the construction fund raised by the last previous bond issue is insufficient, or that the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. For the purpose of ascertaining the amount of money necessary to be raised for such purposes, or any of them, said board shall cause such surveys, examinations, drawings and plans to be made as shall furnish the proper basis for said estimate. Said surveys, examinations, drawings and plans, and the estimate based thereon may provide that the works necessary for a completed project shall be constructed progressively during a period of years. In the estimate of the amount of money necessary to be raised by any issue of bonds in any district, the board of directors may include a sum sufficient to pay the interest on all of such bonds for three years or less. All such surveys, examinations, drawings and plans shall be made under the direction of a competent irrigation engineer and shall be certified by him. (Amended, Stats. 1931, p. 1661.)

Purposes for which bonds may be issued.

Hughson vs. *Crane*, 115 Cal. 404, 47 Pac. 120;
Stimson vs. *Alessandro Dist.*, 135 Cal. 389, 67 Pac. 496, 1034;
Leeman vs. *Perris Irr. Dist.*, 140 Cal. 540, 74 Pac. 24;
Hooker vs. *East Riverside Dist.*, 38 Cal. App. 615, 177 Pac. 184;
Stowell vs. *Rialto Irr. Dist.*, 155 Cal. 215, 100 Pac. 248.
(See Sec. 61b, *infra*.)

Plans and estimate.

Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
Cullen vs. *Glendora Water Co.*, 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
Hughson vs. *Crane*, 115 Cal. 404, 147 Pac. 120;
Hanson vs. *Kittitas Dist.* (Wash.), 134 Pac. 1983;
Board of Directors vs. *Scott* (Wash.), 140 Pac. 391.

Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Tormey vs. *Anderson-Cottonwood Irr. Dist.*, 53 Cal. App. 559, 200 Pac. 814;
Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 233;
Worcs vs. *Imperial Irr. Dist. et al.*, 193 Cal. 609, 277 Pac. 181;
La Mesa, Lemon Grove & Spring Valley Irr. Dist. vs. *Halley*, 197 Cal. 50, 239 Pac. 719;
Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100;
Woods vs. *Baxter Creek Irr. Dist.*, 25 Fed. (2d) 296.

Plan on which bonds were voted may be changed.

El Dorado Irr. Dist. vs. *Browne*, 216 Cal. 269.

Electors of an irrigation district have no constitutional right to vote on bond issues.

El Dorado Irr. Dist. vs. *Browne*, *supra*.

Bonds constitute a contract between bondholders and taxpayers.

San Diego vs. *Childs*, 85 Cal. Dec. 12;
Rohwer vs. *Gibson*, 126 Cal. App. 707;
Hershey vs. *Cole*, 73 Cal. App. Dec. 90.

Report Submitted to California District Securities Commission

SEC. 30a. The board of directors shall then submit a copy of the said estimate and the said engineer's report to the commission authorized by law to approve bonds of irrigation districts for certification as legal investments for savings banks and for the other purposes specified in the act creating said commission. Said commission shall forthwith examine said report and any data in its possession or in the possession

of said district and shall make such additional surveys and examinations as it may deem proper or practicable, and as soon as practicable thereafter shall make to the board of directors of said district a report which shall contain such matters as, in the judgment of the said commission, may be desirable; provided, that it may state generally the conclusions of said commission regarding the supply of water available for the project, the nature of the soil proposed to be irrigated as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage, the cost of works, water rights and other property necessary for a complete and satisfactory project, the proper dates of maturity for the bonds proposed to be issued and whether in its opinion it is advisable to proceed with the proposed bond issue. If the estimate of the amount of said bond issue shall have included any amount for the payment of interest on the bonds of such issue, as provided in section 30 of this act, it shall be lawful for the board of directors, if the issuance of such bonds is thereafter authorized by vote of the electors of the district, to use for the payment of interest on any bonds of such issue so much of the proceeds of the sale of said bonds as may have been approved for that purpose in said report of the commission. (Amended, Stats. 1931, p. 2270.)

Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491; *Bottoms* vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100.

Order Determining Amount of Bonds

SEC. 30b. If after such examination and investigation the said commission shall deem it advisable that the said plans be modified or that the amount of the bonds proposed to be issued be changed, or that certain conditions should be prescribed to insure the success of the project, or that in its opinion it is not advisable to proceed with the proposed bond issue, it shall so state in its report to the board of directors. After receiving said report, or if no report is received within ninety days after the submission of said estimate and engineer's report to said commission, said board of directors, if it shall determine and shall declare by resolution that the proposed plan of works or some modified plan recommended by said commission is satisfactory and that the said project or said modified plan is feasible, shall make an order determining the amount of bonds that should be issued in order to raise the money necessary therefor, and in determining said amount sufficient shall be included to cover the estimated cost of inspection of works in course of construction, as provided for by law; provided, that if any district shall issue bonds to carry out any plans approved by said commission as herein provided it shall be unlawful for said district to make any material change in said plans thereafter without the consent of said commission. (Amended, Stats. 1921, p. 1108.)

Special Bond Election

SEC. 30c. After the making of the order specified in section 30b of this act said board of directors may call a special election, at which shall be submitted to the electors of such district possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount determined in said order of said board

shall be issued, and said board must call such an election and submit said question upon receipt of a petition signed by a majority of the holders of title or evidence of title to lands within the district, representing, also, a majority in value of said lands, or by at least five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing within the district or a holder of title or evidence of title to lands therein, provided that said petitioners shall include the holders of title or evidence of title to not less than twenty per cent in value of said lands. In determining the value of any lands within an irrigation district and the holders of title or evidence of title to such lands for the purpose of determining the sufficiency of any petition required by this act after the organization of the district, the assessment roll of the district last equalized at the time of the presentation of such petition shall be conclusive evidence, but if no assessment roll of the district has theretofore been equalized, then the county assessment roll of the county within which any lands within the district is situated, which county assessment roll has been last equalized at the time of the presentation of such petition, shall be conclusive evidence of such facts for such land. (Amended, Stats. 1919, p. 664.)

Who may sign petition.

In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198.

Election.

Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 793.

Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491.

Notice of Election

SEC. 30d. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. (Added, Stats. 1917, p. 763.)

Ballots and Vote Required

SEC. 30e. At said election questions as to the issuance of bonds may be submitted separately on the same ballot if estimates of the cost of the respective projects have been made and the Irrigation District Bond Commission has reported thereon and the respective propositions have been stated in the notices of the election. At such election the ballots shall contain a general statement of the proposition or propositions to be voted on, including the amount of bonds proposed to be issued for each purpose, but no informality in such statement shall vitiate the election. Each proposition shall be followed by the words "Yes" and "No," on separate lines, with a small inclosed space after

each of said words. The electors shall vote for or against any proposition by stamping a cross (×) in the voting space after the word "Yes" or "No" respectively. On the ballot shall be printed the following under the heading "Instructions to voters": "To vote for a proposition, stamp a cross (×) in the voting space after the word 'Yes' following the proposition. To vote against a proposition, stamp a cross (×) in the voting space after the word 'No' following the proposition." If two-thirds of the votes cast for and against any proposition are for "Yes," the board of directors shall cause bonds in the amount specified in such proposition to be issued; provided, that if said election shall have been called after the presentation of a petition therefor as provided in section 30c of this act, the board of directors shall cause bonds in the amount specified in any proposition to be issued if a majority of the votes cast for and against said proposition are for "Yes." If the number of votes for any proposition is less than the number required herein to authorize the issuance of the bonds provided for therein, the result of the vote on said proposition shall be entered of record, but said proposition may be again submitted to the electors of the district at a special election upon the presentation to the board of directors of a petition therefor signed as provided in section 30c of this act. (Amended, Stats. 1919, p. 664.)

Sec. 18 of Art. XI of the State Constitution inapplicable.

In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
Bliss vs. *Hamilton*, 171 Cal. 123, 152 Pac. 303.

Form and Denomination of Bonds

SEC. 31. Subject to the provisions of this act, the board of directors shall prescribe the form of the bonds issued by the district and of the interest coupons to be attached thereto. An issue of bonds is hereby defined to be all the bonds issued in accordance with a proposal approved by the electors of the district. Each issue of the bonds of a district shall be numbered consecutively as authorized, and the bonds of each issue shall be numbered consecutively. The board of directors shall fix the date of said bonds, or may divide any issue into two or more divisions and fix different dates for the bonds of each respective division. The date of any bond must be subsequent to the election at which its issuance was authorized and prior to its delivery to a purchaser from the district. The date of issue of any bond authorized under this act or heretofore or hereafter issued in pursuance of this act shall be deemed to be the apparent date of the said bond appearing on the face thereof. Each shall be signed by the president and secretary of the board of directors of the district, who may be in office at the date of said bond or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district, and the seal of the district shall be impressed on each bond. The interest coupons shall also bear the signature of the secretary of the board of directors who may be in office at the date of said bond or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district, or a facsimile of such signature. The board of directors shall fix the denominations of said bonds, which shall not be less than one hundred dollars nor more than one thousand dollars. Said bonds shall bear interest at a rate to be fixed by the board of directors, but the rate

shall not exceed six per centum per annum. The interest shall be payable on the first day of January and the first day of July of each year. The board of directors shall also designate the place or places at which said bonds or any of them and the interest thereon shall be payable.[1] Said bonds shall be payable in gold coin of the United States. Bonds shall be made payable on the first day of January or the first day of July of the years designated by the board of directors but in no case shall the maturity of any bond be more than fifty years from the date thereof. Each bond shall be made payable at a given time for its full face value and not for a percentage thereof. The board of directors may, with the approval of the California Bond Certification Commission, provide for the call and redemption of any of said bonds in numerical order, or by lot, on any interest payment date prior to their fixed maturity, at not exceeding the par value thereof and accrued interest, in which event a statement to that effect shall be set forth in the face of the bond. Notice of such redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the county in which the office of the district is located, the first publication of which shall be at least thirty days prior to the date fixed for such redemption. After the date fixed for such redemption, if the district shall have provided funds available for the payment of the principal and interest of the bonds so called, interest on said bonds thereafter shall cease.[2] (Amended, Stats. 1931, p. 777.)

---

[1] Art. XI, Sec. 13½, of the Constitution, authorizes the payment of bonds and interest in any place within or outside of the United States.

[2] The act of 1931 (Stats. 1931, Chap. 318) which amended sections 31 and 32a and added sections 32b, 32c, 32d and 32e, also contained the following:

"SEC. 7. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional or unenforceable, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase hereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional or unenforceable.

SEC. 8. This act shall not invalidate any act done, or any action or proceeding had or commenced before this act takes effect. All proceedings commenced prior to the effective date hereof shall be completed in accordance with the provisions of this act and all acts and proceedings commenced before but not completed until after the effective date of this act, whether relating to the authorization, issuance, exchange, sale or delivery of funding or refunding bonds, or otherwise, shall be valid and legally binding if taken in accordance with the provisions of this act.

SEC. 9. This act shall take effect immediately.

SEC. 10. This act is hereby declared to be an urgency measure within the meaning of section 1 of article four of the constitution of the State of California and it is deemed necessary for the immediate preservation of the public peace, health and safety that this law shall go into immediate effect. The following is a statement of the facts constituting such urgency:

Many irrigation districts organized under the laws of this state have issued bonds for the purpose of acquiring works for the distribution of water to the lands within such districts for irrigation and domestic use, which bonds mature in whole or in part on July 1, 1931. If this amendment does not go into effect until ninety days after the final adjournment of this session of the Legislature, such districts will be unable to take advantage of the provisions hereof prior to July 1, 1931. Unless such bonds and interest coupons are refunded pursuant to the provisions of this amendment such districts must advance large cash payments for maturing bonds and interest coupons on that date, thereby leaving them without sufficient funds to enable them to operate properly and efficiently their distribution works. The proper and efficient operation of such works is necessary for the purpose of furnishing water for irrigation and domestic use to the landowners within such districts and also to certain municipalities which are dependent entirely upon such districts for their source of water supply. The failure of such district to make proper distribution thereof would be a menace to the public health of the inhabitants of such districts and of the municipalities aforesaid. If, however, the provisions of this amendment become a law immediately, such districts will be able to refund their bonds and coupons on or before July 1, 1931, thereby enabling such districts to utilize all available funds for the proper operation of their works for supplying and distributing water."

Date of maturity of bonds and time of payment of interest.

Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825;
Stowell vs. *Rialto Irr. Dist.*, 155 Cal. 215, 100 Pac. 248;
Board of Directors vs. *Peterson* (Ore.), 128 Pac. 837.

Date of issue, signature of secretary, etc.

Wright vs. *East Riverside District*, 138 Fed. 313;
Hooker vs. *East Riverside District*, 38 Cal. App. 615, 177 Pac. 181.

Negotiability of bonds.

Farwell vs. *S. J. and P. V. Irr. Dist.* 49 Cal. App. 167, 192 Pac. 1034.

Redemption of bonds.

(See section 52, *infra.*)

Taxpayer's suit.

Sechrist vs. *Rialto Irr. Dist.*, 129 Cal. 640, 62 Pac. 261.
Henry vs. *Vineland Irr. Dist.*, 140 Cal. 376, 73 Pac. 1061.
(See also section 69, *infra.*)

Validity of bonds in hands of bona fide holders.

Stimson vs. *Alessandro Dist.*, 135 Cal. 389, 67 Pac. 496;
Baxter vs. *Vineland Dist.*, 136 Cal. 185, 68 Pac. 601;
Haese vs. *Heitzeg*, 159 Cal. 569, 114 Pac. 816;
Ham vs. *Grapeland Dist.*, 172 Cal. 611, 158 Pac. 207;
Tulare Dist. vs. *Shepard*, 185 U. S. 1.

Turner vs. *Rosebury Irr. Dist.* (Idaho), 198 Pac. 465.

Art. XI, Sec. 13½, of the Constitution, authorizes the payment of bonds and interest in any place within or outside of the United States.

Sale of Bonds

SEC. 32. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous to raise money for the construction of said canals and works, the acquisition of said property and rights, or the acquisition of any water or water rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks in some newspaper published in the county where the office of the board of directors is located and in any other newspaper at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of the bonds or any portion or portions thereof to the highest responsible bidder or bidders; provided, however, that they may reject any or all bids; and provided, further, that no proposal shall be accepted which is not accompanied by a certified check for such reasonable percentage of the amount of the bid as shall be determined by the board of directors, but in no event less than two per cent of the amount thereof to apply on the purchase price of the bonds, the amount of which check shall be forfeited if after the acceptance of the proposal the bidder shall refuse to accept said bonds and complete his purchase thereof on the conditions stated in his proposal. In case no award is made, the board thereafter may either readvertise said bonds or any part thereof for sale or sell the same or any part thereof at private sale but no sale of said bonds at private sale shall be valid unless approved by the

California Bond Certification Commission. (Amended, Stats. 1921, p. 1108.)

Leeman vs. *Perris Irr. Dist.*, 140 Cal. 540, 74 Pac. 24;
Stimson vs. *Alessandro Irr. Dist.*, 135 Cal. 389, 67 Pac. 496;
Kinkade vs. *Withrop* (Wash.), 69 Pac. 399;
Wyman vs. *Searle* (Nebr.), 128 N. W. 801.

For construction of refunding provisions, see *Mulcahy* vs. *Baldwin*, 216 Cal. 517.

Funding or Refunding Bonds; Alternative Procedure; Election; Maturities; Rate of Interest

SEC. 32a. The board of directors of any irrigation district organized under or subject to the provisions of this act may as hereinafter provided cause funding or refunding bonds to be issued for the purpose of funding or refunding any or all outstanding bonds of the district. Such funding or refunding bonds shall, except as otherwise provided herein, be issued in substantially the manner and form prescribed by this act for the issuance of other bonds of irrigation districts, and the provisions of this act and of the act creating the California Bond Certification Commission concerning the authorization, certification, issuance and sale of bonds of irrigation districts shall be applicable to bonds issued under this section; provided, however, that no survey, examination, drawing, plan, estimate or report of the California Bond Certification Commission as provided in sections 30, 30a, and 30b thereof shall be required to be made, nor shall any resolution of the board of directors that the proposed plan of works is satisfactory as prescribed by section 30b hereof be required to be adopted, but in lieu thereof the board of directors of any district desiring to fund or refund any of its bonds may submit to the California Bond Certification Commission its proposed plan for funding or refunding such bonds. The board of directors of any district may make such expenditures or, with the approval of the California Bond Certification Commission, may incur indebtedness, and issue warrants therefor, for the purpose of paying the cost and expenses incident to any such plan or in connection with such funding or refunding. If such plan is approved by said commission, the board of directors of such district shall call an election for the purpose of authorizing the issuance of such funding or refunding bonds. Such election shall be called and held and the result thereof determined and declared substantially in the same manner as provided by this act for the issuance of other bonds of such districts, except that a majority vote only shall be required for the authorization of such funding or refunding bonds. The maturity or maturities of said funding or refunding bonds shall be fixed by the board of directors of such district subject to the approval of the California Bond Certification Commission, but in no case shall the maturity of any of said bonds be more than fifty years from the date thereof. The rate of interest on such bonds shall not exceed six per centum per annum, payable semiannually. (Amended Stats. 1931, p. 778.)

See City of Long Beach vs. *Lisenby*, 180 Cal. 52, 179 Pac. 198, re definition of "refunding bonds."

See footnote to Sec. 31, *ante*.

Redemption of Funding or Refunding Bonds; Sinking Fund

SEC. 32b. Any issue of such funding or refunding bonds may, in the discretion of the board of directors, mature serially or at one time, but if any issue of such bonds shall mature at one time the board of directors prior to or at the time of the issuance of such bonds shall provide for the creation of an annual sinking fund for the payment of such bonds in such amounts as may be determined by the board of directors with the approval of the California Bond Certification Commission; and the board of directors, anything in this act to the contrary notwithstanding, shall each year at the same time and in the same manner as other assessments in the district are levied and collected, levy and collect an assessment upon all of the lands in the district, in addition to all other assessments in this act required or permitted to be levied and collected, sufficient to provide the amounts of such sinking fund payments for the then current year; provided that the amount of such sinking fund payments may be modified from time to time by the board of directors with the approval of the California Bond Certification Commission. Whenever such sinking fund shall contain at least ten thousand dollars, the board of directors shall by notice published at least once a week for three successive weeks in some newspaper published in the county where the office of the district is located, and, in its discretion, in any other newspaper or newspapers, invite sealed proposals for the sale to the district of any of its outstanding funding or refunding bonds, for the payment of which such sinking fund was created. Said notice shall state the amount available for the redemption of such bonds and shall specify the time and place when such proposals will be opened. All such proposals shall be opened by the board of directors in open meeting at the time specified in said notice, or at some subsequent time to which such meeting shall be adjourned. Any or all of such proposals may be rejected, in the discretion of the board of directors. If no bids are received, or if the bids received and accepted are not sufficient to exhaust the moneys so on hand and available for the purpose, the board of directors may purchase at private sale with any available money in the sinking fund any of said bonds for the payment of which such sinking fund was created. No proposal to sell bonds to the district at a price in excess of the par value thereof shall be accepted. All bonds so purchased from sinking fund moneys shall be forthwith canceled. The board of directors may invest any money in the sinking fund in bonds of the United States or of the State of California and shall hold the bonds so purchased together with the income therefrom, as part of the sinking fund until such time as the board of directors may determine that it is for the best interests of the district that such bonds or any of them be sold. The proceeds of sale of any bonds in which any part of said sinking fund shall be invested shall be deposited in the sinking fund.

The board of directors may, with the approval of the California Bond Certification Commission, by resolution adopted at or prior to the time of issuing any funding or refunding bonds, provide for the call and redemption of any of its funding or refunding bonds, in numerical order, or by lot, as may be prescribed in said resolution, on any interest payment date prior to their fixed maturity, at not exceeding the par

value thereof and accrued interest, in which event a statement to that effect shall be set forth on the face of the bond. Notice of such redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the county in which the office of the district is located. The first publication of such notice shall be not less than thirty days nor more than ninety days prior to the date fixed for such redemption. After the date fixed for such redemption, if the district shall have provided funds available for the payment of the principal and interest of the bonds so called, interest on said bonds thereafter shall cease.

Notwithstanding anything to the contrary herein contained, the board of directors shall not be required to levy any such assessment for said sinking fund for said current year if the district shall have on hand surplus funds from other sources available for said sinking fund payment and shall have deposited the same in said sinking fund; and if the district shall have on hand funds available for the payment of a portion only of said sinking fund payment and shall have deposited the same in said sinking fund, said assessment for sinking fund purposes for such year shall be so levied as to provide only for raising the amount by which the amount of such sinking fund payment shall exceed the amount deposited in said sinking fund, as aforesaid. (Added, Stats. 1931, p. 779.)

See footnote to Sec. 31, *ante*.

Sale or Exchange of Funding or Refunding Bonds

SEC. 32c. Any funding or refunding bonds herein provided for may be sold from time to time in the same manner as other bonds of the district, or, may be exchanged for such other bonds of the district upon such terms and conditions as may be approved by the California Bond Certification Commission. Any such outstanding bonds so funded or refunded or exchanged shall be immediately canceled by the treasurer. (Added, Stats. 1931, p. 781.)

See footnote to Sec. 31, *ante*.

Payment of Principal or Interest on Funding or Refunding Bonds

SEC. 32d. Notwithstanding anything to the contrary in this act contained, if in the judgment of the board of directors it is desirable that the principal and/or interest of any funding or refunding bonds issued pursuant to this act, or any part of such principal or interest, shall be payable solely from the proceeds, or any part thereof, of any existing or proposed contract or contracts of the district for the sale of water and/or electricity, or otherwise, or from any other source or sources of payment, other than assessments, the board of directors may, with the approval of the California Bond Certification Commission so provide by resolution adopted at or prior to the time of the issuance of such bonds. In case the board of directors shall determine that the principal of any funding or refunding bonds issued pursuant to this act, or any part of such principal, shall be payable only from the proceeds of any such contract or contracts or other source or sources of payment, other than assessments, it shall cause a brief statement of such limitations upon the payment of said principal, or portion thereof, to

be set forth in such bonds; and in case such limitations shall affect the payment of the interest of such bonds or any part thereof, a statement of such limitations shall be set forth in the interest coupons representing such interest and also in the bonds to which such interest coupons are appurtenant. If such limitations shall affect the payment of a portion only of the interest which shall accrue on any funding or refunding bonds issued pursuant to this act, the board of directors may either provide that the entire installment of interest payable on any interest payment date shall be represented by a single coupon which shall contain a brief statement as to the portion of such interest, the payment of which is subject to such limitations, or, in its discretion, said board may provide that the portion of said interest the payment of which is not subject to such limitations and the portion of such interest the payment of which is subject to such limitations shall be represented by separate interest coupons, the coupon representing such portion of the interest as to which such limitations upon payment exist containing a brief statement of such limitations. (Added, Stats. 1931, p. 781.)

See footnote to Sec. 31, *ante*.

Irrevocable Allocation of Proceeds of Contract to Payment of Principal or Interest on Bonds

SEC. 32e. Notwithstanding anything to the contrary in this act contained, the proceeds of any existing or proposed contract or contracts, or source or sources of payment, or any portion thereof, designated by said board, may by resolution of said board be allocated to the payment of the principal and/or interest of any bonds of the district, including funding or refunding bonds, or of any portion of such principal or interest designated by said board, and after such allocation and until the payment or retirement of the bonds for the benefit of which such allocation was made, such proceeds or other source or sources of payment, or portion thereof, so designated by said board, shall be applied solely to the payment of the obligation specified in such resolution. Such allocation may be made for the exclusive benefit of any one or more issues of bonds of the district, or portions thereof, designated in such resolution, or, in the discretion of said board, for the benefit of any bonds of the district at any time issued or outstanding. Any such allocation shall be irrevocable until all of such bonds and their appurtenant coupons shall have been paid or retired. In the event that the board of directors, with the approval of the California bond certification commission, shall, pursuant to this act, provide that the principal and/or interest of any bonds, or any portion of such principal and/or interest, shall be payable solely from the proceeds of any such contract or contracts, or other source or sources of payment, other than assessments, neither the district nor any officer thereof shall be holden for such payment otherwise.

The district may also, with the approval of said commission, designate any bank or trust company or banks or trust companies to act as its agent or agents for the purpose of making payment of the principal and/or interest of any of its bonds, including its funding or refunding bonds, and/or receiving the payments under any contract or contracts for the sale of water or electricity or any revenue from any

other source or sources, so allocated by said board to the payment of the principal and/or interest, or any part thereof, of any such bonds, and/or for the purpose of applying such payments to the payment of such principal or interest, or portion thereof, so designated; and the district, with the consent of said commission, may from time to time substitute another bank or trust company or other banks or trust companies in the place of the bank or trust company or banks or trust companies so designated, and similarly, may substitute another bank or trust company or other banks or trust companies in the place of any bank or trust company or banks or trust companies substituted as aforesaid. (Added, Stats. 1931, p. 782.)

See footnote to Sec. 31 *ante*.

SEC. 32½. (This section, relating to election on sale of bonds at less than par, was repealed by Stats. 1931, p. 121.)

For construction of refunding provisions, see *Mulcahy* vs. *Baldwin*, 216 Cal. 517.

Payment by Annual Assessment

SEC. 33. Said bonds and the interest thereon shall be paid from revenue derived from an annual assessment upon the land within the district; and all the land within the district shall be and remain liable to be assessed for such payments as hereinafter provided. (Amended, Stats. 1917, p. 764.)

Bonds and coupons must be paid in order of presentation or registration.
Bates vs. *McHenry*, 123 Cal. App. 81.

Procedure for enforcement of lien.
Nevada Nat'l Bank vs. *Poso Irr. Dist.*, 140 Cal. 344, 73 Pac. 1056;
Boskowitz vs. *Thompson*, 144 Cal. 724, 78 Pac. 290;
Herring vs. *Modesto Irr. Dist.*, 95 Fed. 705;
Perkins vs. *People* (Colo.), 147 Pac. 356;
Henrylyn Irr. Dist. vs. *Thomas* (Colo.), 173 Pac. 541;
Henrylyn Irr. Dist. vs. *Thomas* (Colo.), 181 Pac. 979, 980;
Rialto Irr. Dist. vs. *Stowell*, 246 Fed. 294;
Norris vs. *Montezuma Irr. Dist.*, 248 Fed. 369;
***Gas Securities Co.* vs. *Antero & Lost Park etc. Co.*, 259 Fed. 423.**

Suit by bondholders to enforce payment.
Quinton vs. *Equitable Investment Co.*, 196 Fed. 311.

The assessments, not the bonds, are a lien on the land.
Clark vs. *Demers* (Mont.), 254 Pac. 162;
Kollock vs. *Barnard* (Ore.), 242 Pac. 847;
***Dougery* vs. *Bettencourt*, 82 Cal. Dec. 325, 2 P. (2d) 803.**

Farwell vs. *San Jacinto, etc. Irr. Dist.*, 49 Cal. App. 167, 192 Pac. 1034.

ASSESSMENT FOR COMPLETION OF WORK

Assessment; Notice of Special Election Ballots

SEC. 34. In case the money raised by the sale of bonds issued be insufficient, or in case the bonds be unavailable for the completion of the plan of canal and works adopted, and the acquisition of the necessary property, waters and water rights therefor, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan, and the acquisition of such necessary property, waters and water rights, by levy of assessments therefor; provided, however, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has

been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Assessment—Yes", or "Assessment—No", or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes", the board of directors shall cause an assessment in the amount named in the order of submission to be levied; if a majority of the votes cast are "Assessment—No", the result of such election shall be so declared and entered of record. (Amended, Stats. 1911, p. 514.)

Cooper vs. *Miller*, 113 Cal. 238, 45 Pac. 325;
In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198;
Imperial Land Co. vs. *Imperial Dist.*, 173 Cal. 668, 161 Pac. 116;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 287;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223.

DUTIES OF THE ASSESSOR

Assessment Book and Method of Assessment

SEC. 35. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all land in the district, which shall include city and town lots, to the persons who own, claim or have possession or control thereof, at its full cash value, as follows: He must prepare an assessment book with appropriate headings, in which must be listed all such property within the district, giving: (1) the name of the person to whom the property is assessed, and if the name is not known to the assessor, the property shall be assessed to "unknown owners"; (2) a description of the land sufficient to identify it, with an estimate of the number of acres, except in the case of city or town lots; (3) the cash value of the land. A column or columns with the headings "Lot" and "Block" or either of them may be provided for the designation of the lots and blocks, or either of them, in any city or town or recorded subdivision. If any land in the district is subject to a different rate of assessment from the other lands in the district it shall be separately designated and described. Said book shall also contain a column for showing the valuations after equalization by the board of directors, and shall be arranged to show such other facts as the board of directors may require. Improvements

on any land within the districts shall be exempt from assessment for any of the purposes mentioned in this act. The term improvements as used in this section includes trees, vines, alfalfa and all growing crops and all buildings and structures of whatever class or description. (Amended, Stats. 1931, p. 233.)

Pol. Code, Sec. 3653, provides that, upon written request, the county assessor must furnish the district with a certified copy of the assessment book, so far as it pertains to property within the district.

Property exempt from assessment when devoted to a public use, otherwise not.

Reel. Dist. vs. *East Bay, etc. Dist.*, 91 Cal. App. 149, 266 Pac. 969;
Inglewood vs. *Los Angeles*, 207 Cal. 697, 284 Pac. 906;
City of Fresno vs. *Fresno Irr. Dist.*, 72 Cal. App. 503, 237 Pac. 772;
Cooper vs. *Miller*, 113 Cal. 238, 45 Pac. 325;
***Escondido H. S. Dist.* vs. *Escondido Seminary,* 130 Cal. 128, 62 Pac. 401;**
W. U. Tel. Co. vs. *Modesto Irr. Dist.*, 149 Cal. 662, 87 Pac. 190;
Best vs. *Wohlford*, 144 Cal. 733, 78 Pac. 293;
Best vs. *Wohlford*, 153 Cal. 17, 94 Pac. 98;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 668, 161 Pac. 116;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 237;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728;
Miller & Lux vs. *Secara*, 193 Cal. 783, 227 Pac. 171;
Wores vs. *Imperial Irr. Dist.*, 193 Cal. 609, 227 Pac. 181.

Railroad property may be assessed.

Southern Pacific Co. vs. *Stibbens*, 103 Cal. App. 664, 285 Pac. 374.

Escaped or omitted assessment, see Secs. 35b, 39e, *post*.

"Assessment Book" Defined

SEC. 35a. The term "assessment book" as used in this act is hereby defined to include any substantial record showing the data required by this act, whether in the form of a bound volume or volumes or on cards so arranged and kept as to provide a record of the assessments. (Added, Stats. 1929, p. 161.)

Omitted Assessments Levied With Current Assessments

SEC. 35b. Any land which may have escaped the payment of any assessment, whether because of the omission of the land from the assessment book or because of illegality in the levying thereof or any proceedings relating thereto, shall, in addition to its assessment for the then current year, be entered in the assessment book by the assessor at the valuation which he may deem proper for the year of the escaped assessment. Such additional assessment shall be subject to equalization as is provided in this act for the current assessment, and at the time of levying the assessment for the current year the board of directors of the district shall levy on said land an assessment at the rate fixed in the year of the escaped assessment, or, if no rate was legally fixed in that year, the board shall levy an assessment on said land at the rate which should have been computed in that year to raise the amount of money then required by the district. Any such additional assessment shall be payable at the same time or times as the current assessment, and if not paid, shall be subject to like penalties and proceedings to enforce its collection. (Added, Stats. 1931, p. 233.)

See Sec. 39e, *post*, 35 *ante*.

Petition for Special Rate of Assessment; Hearing and Determination

SEC. 35c. Anyone having an interest in any land within the district may file with the secretary of the board of directors a verified petition, alleging that said land, or some described portion thereof, was, when it became a part of the district, irrigated from another system of works than the works of or proposed for the district and has continued ever since to be exclusively so irrigated and is entitled to a special rate of assessment, and praying the board to determine what proportion or part of the regular rates of assessment in the district should be used in levying assessments on the land described in the petition. The board shall set a time and place for the hearing of said petition, or of all of the petitions so filed if more than one has been filed, and shall cause notice thereof to be given in a newspaper published in the county wherein the office of the district is located. The notice shall state that a petition has been, or petitions have been presented to the board praying for a determination that certain lands described therein, but which need not be described in the notice, are entitled to a special rate or rates of assessment and giving the names of the petitioner, or petitioners, and the time and place set for the hearing. The board shall meet at the time and place so set and proceed in such order as it may deem proper, to hear the petition or petitions and shall hear all competent and relevant evidence offered in support of any petition or in opposition thereto, and may adjourn the hearing from time to time. A fee of ten dollars must be paid to the secretary before the filing of any such petition, and the money shall be applied to the cost of the publication of the notice and other expenses of the hearing. If there shall be any balance after the conclusion of the hearing, it shall be returned to the petitioner or divided among the petitioners contributing thereto in proportion to the respective areas described in their petitions. After the conclusion of the hearing, if the board shall find that any of the land described in any petition or petitions has been irrigated as alleged and is not and will not be so benefited by the operations of the district as to justify its assessment at the same rate as other lands in the district not so irrigated, which rate may be referred to as the regular rate of assessment, the board shall, in an order or resolution which shall be entered in full upon its minutes, describe the land entitled to a special rate of assessment, or the respective parcels thereof if separate parcels are to be assessed, and shall determine and fix the proportion or part of the regular rate of assessment which shall be applied in levying assessments on said land, or on each parcel thereof if various parcels are found to be entitled to different special rates, in order that the assessments to be levied on said land may be in accordance with the benefits which it receives or will receive from the operations of the district. If the board shall determine that any land is entitled to a special rate of assessment, a certified copy of the order or resolution so determining shall be delivered to the assessor, and thereafter, until notified of a change in such determination, he shall enter the land described herein separately in the assessment book and so designate it that it may readily be distinguished from other land not entitled to a special rate. If such a determination is made in any year too late for the land to be separately described in the assessment book, but before the annual assessment has been levied, the board shall

direct the secretary to make such entries in the assessment book as will enable him to compute the assessments at the special rate or rates determined by the board. If the board shall have determined that any land is entitled to a special rate of assessment, the rates of assessment in the district shall be so computed as to be sufficient to produce the sum to be raised after deducting fifteen per cent from the assessed valuation as provided in section 60 of this act. The determination of the board with respect to any land after a hearing as aforesaid shall not be changed unless the board, on petition of a party affected, shall consent to another hearing, or on its own motion shall cause notice to be served on the owner of the land to show cause why the determination should not be changed, in either of which cases another hearing shall be advertised and held as hereinabove provided. (Added, Stats. 1931, p. 234.)

Deputy Assessors

SEC. 36. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to complete the assessment within the time herein prescribed. The board must fix the compensation of such deputies, which shall be paid out of the treasury of the district. The compensation must not exceed five dollars per day for each deputy, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year.

See ante, p. 27, *"Appointment of Deputies."*

Completion of Assesment Book and Equalization of Assessments

SEC. 37. On or before the first Monday in August in each year, the assessor must complete his assessment book, and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time when the board of directors, acting as a board of equalization, will meet to equalize assessments, by publication at least two times in a newspaper published in the county in which the office of the district is located, and if the district includes land in more than one county, then said notice shall be published at least two times in a newspaper in each county in which any portion of the district is situated. Said notice or notices shall be first published at least twenty days and not more than thirty days before the time fixed for said meeting. Failure so to publish such notice in any county other than that in which the office of the district is located shall not affect the validity of any assessment on land in a county in which notice was published as herein provided. In the meantime the assessment book must remain in the office of the secretary for the inspection of all persons interested. (Amended, Stats. 1931, p. 235.)

Lahman vs. *Hatch*, 124 Cal. 1, 56 Pac. 621;
N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore.), 211 Pac. 781, 789;
Wores vs. *Imperial Irr. Dist.*, 193 Cal. 609, 227 Pac. 181;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100.

Hearing

SEC. 38. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from time to time, as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation, acreage, or any matter pertaining to the assessment as may come before them; and the board may make such changes thereof as may be just. The secretary of the board shall be present during its session, and make all changes ordered in the assessment book; and within ten days after the close of the session he shall have the total values, as finally equalized by the board, extended into columns and added. (Amended, Stats. 1931, p. 236.)

Lahman vs. *Hatch*, 124 Cal. 1, 56 Pac. 621;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 668, 161 Pac. 116;
Miller & Lux vs. *Board of Supervisors*, 189 Cal 254, 208 Pac. 304;
Wores vs. *Imperial Irr. Dist.*, 193 Cal. 609, 227 Pac. 181.

LEVY AND COLLECTION OF ASSESSMENTS

Assessment for District Charges and Expenses

SEC. 39. The board of directors shall then, within fifteen days after the close of its session as a board of equalization, levy an assessment upon the lands within the district in an amount sufficient to raise the interest due or that will become due on all outstanding bonds of the district on the first day of the next ensuing January and the first day of the next ensuing July, or that the board of directors believes will become due on either or both of said dates, on bonds authorized but not sold; also sufficient to pay the principal of all bonds of the district that have matured or that will mature before the close of the next ensuing calendar year; also sufficient to pay in full all sums due or that will become due from the district before the close of the next ensuing calendar year on account of rentals, or charges for lands, water, water rights or other property acquired by said district under lease or contract; also sufficient to pay in full all sums due or that will become due from the district, before the close of the next ensuing calendar year on account of contracts entered into by the district for power or fuel used or to be used for the pumping of water for the irrigation of land within the district; provided, the payment of the cost of such power or fuel has not been provided for by the levying of tolls or charges for the use of water or otherwise; also sufficient to pay in full the amount of all unpaid warrants of the district issued in accordance with this act and the amount of any other contracts or obligations of the district which shall have been reduced to judgment; also such an amount as the board of directors may determine is necessary, to be set aside as a depreciation fund for the replacement or reconstruction of any specific unit or units of its works; also sufficient to raise such amount not exceeding two per centum of the aggregate value of the lands within the district according to the latest duly equalized assessment roll thereof, as the board of directors shall determine may be needed to be raised by assessment for any of the purposes of this act. The board of directors may also include in any annual assessment such an amount as

it may deem proper, not exceeding one per centum of the total assessed value of the land in the district, to be apportioned to the bond fund and to be used as provided in section 52 of this act, for the redemption or purchase of bonds of the district not yet due, or for the creation of a sinking fund to pay any of such bonds as they become due; provided, however, that notwithstanding any provision of this act or any act amendatory hereof, or supplementary hereto, the board of directors may in lieu, either in whole or in part, of levying the annual assessment for the payment of interest on or principal of bonds, or for any other purposes of this act, use any income or revenue of the district derived from the sale of electric power or from the sale or lease of water or the use of water for power purposes. (Amended, Stats. 1931, p. 122.)

Mandamus is the proper remedy to collect a judgment against an irrigation district.

Thompson vs. *Perris Irr. Dist.*, 116 Fed. 769;
Board of Sup'rs vs. *Thompson*, 122 Fed. 860.

Assessments on *ad valorem* basis constitutional.

In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675.

Payment under protest.

Decker vs. *Perry*, 4 Cal. Unrep. 488.

"Outstanding bonds" defined.

Board of Directors vs. *Tregea*, 88 Cal. 334, 356, 26 Pac. 237.

Cooper vs. *Miller*, 113 Cal. 238, 45 Pac. 325;
Hughson vs. *Crane*, 115 Cal. 404, 47 Pac. 120;
Lahman vs. *Hatch*, 124 Cal. 1, 56 Pac. 621;
Escondido H. S. Dist. vs. *Escondido Seminary*, 130 Cal. 128, 62 Pac. 401;
Baxter vs. *Vineland Irr. Dist.*, 136 Cal. 185, 68 Pac. 601;
Boskowitz vs. *Thompson*, 144 Cal. 724, 78 Pac. 290;
Nevada Nat'l Bank vs. *Poso Dist.*, 149 Cal. 662, 87 Pac. 190;
In re Bonds of South San Joaquin Dist., 161 Cal. 345, 119 Pac. 198;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113;
Hewel vs. *Hogin*, 3 Cal. App. 248, 84 Pac. 1082;
Nevada Nat'l Bank vs. *Board of Sup'rs*, 5 Cal. App. 638, 91 Pac. 122;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 287;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Board of Sup'rs vs. *Thompson*, 122 Fed. 860;
Marra vs. *S. J. and P. V. Irr. Dist.*, 131 Fed. 780;
Eberhard vs. *Canon* (Colo.), 157 Pac. 189;
Rio Grande, etc. Co. vs. *Orchard Mesa Dist.* (Colo), 171 Pac. 367;
Nelson vs. *Anderson-Cottonwood Irr. Dist.*, 51 Cal. App. 92, 196 Pac. 292;
Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 208 Pac. 304;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
McDonough vs. *Cooper*, 179 Cal. 384, 177 Pac. 153;
Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100;
People vs. *Honey Lake Valley Irr. Dist.*, 77 Cal. App. 367, 246 Pac. 819;
Noble vs. *Yancey* (Ore.), 241 Pac. 335;
Willard et al. vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
Wores vs. *Imperial Irr. Dist.*, 193 Cal. 609, 227 Pac. 181.

Duty of Secretary

SEC. 39a. The secretary of the board must compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds. (Added, Stats. 1917, p. 765.)

McDonough vs. *Cooper*, 179 Cal. 384, 177 Pac. 153.

As to physical separation of funds, see

Buena Vista Dist. vs *Shields*, 126 Cal. App. 241.

Neglect or Refusal to Make Assessment

SEC. 39b. If as the result of the neglect or refusal of the board of directors to cause such assessment and levies to be made as in this act provided, then the duly equalized assessment made by the county assessor of the county or each of the respective counties in which the district is situated shall be the basis of assessment for the district, and the board of supervisors of the county in which the office of the board of directors of said district is situated shall cause an assessment roll of said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors and all expenses incident thereto shall be borne by such district and may be collected by suit at law, which shall be commenced by the district attorney of the county whose board of supervisors caused said assessment roll to be prepared, unless the amount of such expenses shall be paid within sixty days from the time when proper demand shall have been made therefor. In case of the neglect or refusal of the collector or treasurer of any irrigation district to perform the duties imposed by law, then the tax collector and the treasurer of the county in which the office of the board of directors of such district is situated must respectively perform such duties and shall be accountable therefor upon their official bonds; but, in case any county tax collector shall collect any assessment for any irrigation district, he shall pay the same to the county treasurer, who shall place such money in special fund to the credit of the district, and shall disburse the same to the proper person for the purposes for which such assessments have been levied and shall not pay any part thereof to the treasurer of said district until said county treasurer shall be satisfied that all of the valid obligations for which such assessments were levied and for which payment has been demanded have been paid. (Added, Stats. 1917, p. 765.)

Duty of District Attorney

SEC. 39c. It shall be the duty of the district attorney of each county in which the office of any irrigation district is located to ascertain each year whether the duties relating to the levying and collection of assessments, as in this act provided, have been performed, and if he shall learn that the board of directors or any official of any such irrigation district has neglected or refused to perform any such duty, said district attorney shall so notify the board of supervisors or the county official required by this act to perform such duty in such case, and, unless such board of supervisors or such county official shall proceed to the performance of such duty within thirty days after the receipt of such notice the district attorney shall take such action in court as may be necessary to compel the performance of such duty, and said district attorney shall give such notice to other officials, and shall take such action, as may be necessary to secure the performance in their proper sequence of the other duties relating to the levying and collection of assessments, as in this act provided, that for the enforcement of the levying and collection of any assessment hereafter required to be levied and collected for the payment of any debt hereafter incurred, in case complaint shall be made to the Attorney General of the State of California that the district attorney of any county has not performed any

duty devolving upon him by the provisions of this section, or that he is not proceeding with due diligence or in the proper manner in the performance of any such duty, the Attorney General shall make an investigation, and if it shall be found that such charge or charges are true, said Attorney General shall take such measures as may be necessary to enforce the performance of the duties relating to the levying and collection of assessments, as in this act provided. (Added, Stats. 1917, p. 766.)

Marra vs. *S. J. and P. P. Irr. Dist.*, 131 Fed. 780.

Extension of Time

SEC. 39d. If as the result of the neglect or refusal of any official or officials to perform any duty relating to the levying and collection of assessments, as in this act provided, it shall be impossible for such duty to be performed within the time required and such duty shall subsequently be performed, then the time within which all duties consequent upon the performance of such duty shall be performed shall be extended so as to allow the elapsing of the intervals required by this act to elapse between the performance of such duties, and the assessments herein provided for shall not become delinquent for at least thirty days after the first publication of the notice that such assessments are due and payable, as provided in section 41 of this act. (Added, Stats. 1917, p. 767.)

Assessment of Omitted Lands

SEC. 39e. In the event any land within said district subject to assessment for the purposes of the district has not been assessed by the county assessor or does not appear upon the county assessment roll adopted by said board of supervisors as the basis of assessment for the district, the land so omitted belonging to any person, association, corporation, or municipality shall be forthwith assessed by the county assessor upon an order of the board of supervisors and a description of the property so omitted shall be written in the roll prepared for the purpose of district assessments. In such case, before any assessment is levied, the board of supervisors must meet and equalize said assessment with that of the assessment of other lands in said district. The same notice shall be given by the board of supervisors of such meeting for purpose of equalizing the assessment to be made as herein directed as is provided in this act to be given by the board of directors of an irrigation district when the said board is to meet for the purpose of equalizing assessments. All the powers and duties respecting the collection of all assessment on possession of, claim to, or right to the possession of land now provided in sections 3820, 3821, 3822, 3823, 3824, 3825 and 3829 of the Political Code, as regards county assessors shall apply, so far as applicable to irrigation district assessors. (Added, Stats. 1917, p. 767.)

See Secs. 35, 35b, *ante*.

Unpaid Tolls Part of Assessment

SEC. 39f. Whenever any tolls and charges for the use of water and other public uses provided for by this act have been fixed by the board of directors, it shall be lawful to make the same payable in

advance. In case any tolls or charges remain unpaid at the time specified for the delivery of the assessment book to the collector of the district, the amount due for such tolls and charges, may be added to and become a part of the annual assessment levied upon the land upon which the water for which such tolls and charges are unpaid was used and upon the lands subject to tolls and charges for other public uses, and shall constitute a lien on said land, and if such assessment is divided and made payable in two installments such unpaid tolls and charges may be added to and become a part of the first installment of said assessment. (Amended, Stats. 1925, p. 501.)

Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
San Diego vs. *La Mesa, L. A. & S. V. Irr. Dist.*, 63 Cal. App. Dec. 777, 292 Pac. 1082.

Attaching of Assessment Lien

SEC. 40. The assessment upon land is a lien against the property assessed from and after the first Monday in March for any year. (Amended, Stats. 1917, p. 768.)

Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Bolton vs. *Terra Bella Irr. Dist.*, 196 Cal. App. 313, 289 Pac. 678.

How divested, see Secs. 46, 47, 47a, *post*.

Erroneous Assessments, Refunding and Change Of

SEC. 40a. In case the board of directors of any irrigation district shall find that any property has been assessed in any year more than once or has been assessed by reason of a clerical error for more than its full cash value, or computed on an excessive acreage, or that any property assessed was not in the district when so assessed, the board may authorize the collector to cancel or modify such assessment, as may be proper, and in case of any such change in any assessment, the secretary shall credit the collector with the amount of said assessment if it is canceled, or the amount by what it is reduced if it is modified.

Any assessments, penalties or costs thereon, or portions thereof, provided for by this act, heretofore or hereafter paid more than once, or heretofore or hereafter erroneously, or illegally collected, may by order of the board of directors be refunded by the district treasurer.

No order for the refund of assessments, penalties or costs under this section shall be made except upon a verified claim therefor verified by the person who has paid said assessments, penalties or costs, or by his guardian, or in case of his death, by his executor or administrator, which said claim must be filed within one year after the making of the payment sought to be refunded. (Added, Stats. 1923, p. 632.)

Recovery of assessments paid.
See: *Grimes* vs. *Co. of Merced*, 96 Cal. App. 6, 273 Pac. 839;
Perrin vs. *Honeycutt*, 141 Cal. 87, 77 Pac. 776;
Sec. 3804 Pol. Code.

Due and Delinquency Dates on Assessments

SEC. 41. On or before the first day of November, the secretary must deliver the assessment book to the collector of the district, who shall within twenty days start the publication of a notice that said assessments are due and payable and will become delinquent at six

o'clock p.m. on the last Monday of December next thereafter, except as provided in section 41c hereof, and that unless paid prior thereto five per cent of the amount thereof will be added as a penalty for delinquency. Provided, however, that when assessments are made payable in two installments as provided in section 41c hereof, the penalty to be added for delinquency on the first installment shall be ten per cent, and the penalty to be added to the second installment shall be five per cent. Said notice shall also state the time and place at which payment of assessments may be made. Said notice shall be published at least two times; to wit, once a week for two successive weeks, in a newspaper published in the county in which the office of the district is located, and if the district includes land in more than one county, then said notice shall be published as aforesaid in a newspaper in each county in which any portion of the district is situated. Failure to publish notice as aforesaid in any county other than that in which the office of the district is located shall not affect any assessment on land in a county in which notice was published as herein required. The collector must attend at the time and place specified in the notice to receive assessments, which must be paid in lawful money of the United States; he must mark the date of payment of any assessment in the assessment book, opposite the name of the person paying and give a receipt to such person, specifying the amount of the assessment and the amount paid, with the description of the property assessed. On the last Monday in December at six o'clock p.m. of each year, except as provided in section 41c hereof, all unpaid assessments are delinquent and thereafter the collector must collect thereon, for the use of the district, an addition of five per cent, or ten per cent on the first installment as otherwise provided in this section, of the amount thereof as a penalty for delinquency. (Amended, Stats. 1933, p. 1627.)

San Diego vs. *Linda Vista Dist.*, 108 Cal. 189, 41 Pac. 291;
Perry vs. *Otay Irr. Dist.*, 127 Cal. 565, 60 Pac. 40;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 287;
Holland vs. *Avondale Dist.* (Idaho), 166 Pac. 259;
Farwell vs. *San Jacinto, etc. Irr. Dist.*, 49 Cal. App. 167, 192 Pac. 1034.

See Sec. 41c, *infra*.

Suit Against Delinquent to Collect Assessment

SEC. 41a. The board of directors may at any time after any assessment has become delinquent direct the collector not to proceed with the sale of any property on the delinquent list, but to bring suit against the delinquent in the proper court in the name of the district to enforce such collection. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials, and pleas are hereby made applicable to the proceedings herein provided for, and in such suit the district may recover the amount of said assessment together with the penalties and interests, provided in this act, and costs of suit. (Added, Stats. 1915, p. 1368.)

Irrigation district assessment is an assessment for benefits.
San Diego vs. *Linda Vista Irr. Dist.*, 108 Cal. 189, 41 Pac. 291;
Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 208 Pac. 304.

As to enforcement of collection by suit against delinquent, *see*
Atchison T. & S. F. Ry. Co. vs. *Reel. Dist.*, 173 Cal. 91, 159 Pac. 430.

SEC. 41b. (No section of this number.)

Assessments Payable in Installments

SEC. 41c. The board of directors may, whenever they shall so determine, and must upon a petition in writing, signed by a majority of the assessment payers within the district, pass a resolution providing that thereafter all assessments, except special assessments provided for by section 34 of this act, shall be payable in two installments, and in said resolution shall specify when such payments may be made, and the percentage of said assessments to be paid in each installment. Such resolution must be passed before the first Monday in August, and can not be rescinded to take effect during any year after the first Monday of March in that year. Whenever the board of directors have so determined, thereafter the first installment of the assessment levied shall become delinquent at six o'clock p.m. on the last Monday of December, and the second installment thereof shall become delinquent at six o'clock p.m. on the last Monday of June next thereafter; provided, that where an assessment has been levied as provided in section 34 of this act the whole of such assessment shall become delinquent on the last Monday in December. When provision is made as herein provided, for the payment of said assessments in two installments, the publication of the delinquent list provided for in this act, shall not be made before the first day of July, but must be made on or before the first day of August, and except as otherwise in this section provided all the provisions of this act relative to the assessment, payment and collection of assessments, notice of assessments, publication of delinquent list, and sale for delinquent assessment, and all other provisions relative to such assessments shall be applicable.[1] (Added, Stats. 1927, p. 614.)

SALE FOR DELINQUENT ASSESSMENTS

Publication of Delinquent List; Time and Place of Sale

SEC. 42. On or before the first day of February, except as provided in section 41c hereof, the collector must publish the delinquent list,[2] which shall contain the names of the persons and the description of the property delinquent, and the total amount of the assessments, penalties and costs due thereon. He must append to and publish with the delinquent list a notice that unless the assessments delinquent, together with penalties and costs accrued thereon, as shown in the list, are paid, the real property upon which such assessments are a lien will be sold to the district. The publication must be made three times; to wit, once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; provided, however, that only such lands as may be situated in such county need be set forth in

[1] The 1927 act, adding section 41c, also contained the following:
SEC. 2. That certain act entitled "An act to permit boards of directors of irrigation districts organized or existing under and by virtue of an act of the Legislature, entitled 'An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes,' approved March 31, 1897; to provide for the payment in two installments of the assessments levied under and in accordance with the provisions of said act," approved March 19, 1909, is hereby repealed.

[2] If provision has been made for the payment of assessments in two installments, publication of the delinquent list shall not be made before the first day of July, but must be made on or before the first day of August. See section 41c, *infra*.

such publication; and provided further, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. The publication must designate the time and place of the sale. The time of sale must be not less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district, or it may be at the office of the district if said office is not within the district; provided, however, that if there should occur any error in the publication of the notice of the sale of the delinquent property, or the delinquent list, which might invalidate a sale made thereunder, and such error is discovered prior to sale thereunder, the collector shall at once republish the notice of the sale of that property affected by such error, making such republication conform to the provisions of this law, and the time of sale designated in such republication must be not less than twenty-one nor more than twenty-eight days from the first republication; and the place of sale must be at some point designated by the collector within the district, or it may be at the office of the district if said office is not within the district, and stated in such republication. (Amended, Stats. 1933, p. 1628.)

Best vs. *Wohlford*, 153 Cal. 17, 94 Pac. 98;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728.

Publication of delinquent list.

Hanhart vs. *Co. of Madera*, 76 Cal. App. 290, 245 Pac. 444;
Adams vs. *Slee*, 92 Cal. App. 708, 268 Pac. 959.

Form of delinquent list.

Davis vs. *Pac. Imp. Co.*, 137 Cal. 245, 70 Pac. 15;
Gottstein vs. *Kelly*, 206 Cal. 742, 276 Pac. 347;
Fox vs. *Wright*, 152 Cal. 59, 91 Pac. 1005;
Smith vs. *Furlong*, 160 Cal. 522, 117 Pac. 527;
Kipp vs. *Danielson*, 63 Cal. App. Dec. 460, 292 Pac. 155;
Sawyer vs. *Berkeley Sec. Co.*, 99 Cal. App. 545, 279 Pac. 217.
Rexon vs. *Gaffey*, 119 Cal. App. 389;
Fleishman vs. *Davis*, 71 Cal. App. Dec. 1083.

Costs; Sale to the District

SEC. 43. The collector must collect, in addition to the assessments due on the delinquent list, and the penalty or penalties added for delinquency, costs in the sum of fifty cents on each lot, piece or tract of land separately assessed. The collector may postpone the day of the sale from day to day, but the sale must be made within three weeks from the day fixed in the notice so published; provided, that if any sale is stayed by legal proceedings the time during which such sale is so stayed shall not be deemed a part of the time limited for making such sale. On the day fixed for the sale in the published notice thereof, or some subsequent day to which the collector may have postponed it, the whole amount of the property upon which the assessment remains unpaid shall, by the collector, be sold to the irrigation district within which such lands are situated, as the purchaser, and the collector shall make an entry "sold to the district" and shall be credited with the amount thereof in his settlement. (Amended, Stats. 1933, p. 1629.)

Woodruff vs. *Perry*, 103 Cal. 611, 37 Pac. 526;
Baxter vs. *Vineland Irr. Dist.*, 136 Cal. 185, 68 Pac. 601;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 287;
Young vs. *Patterson*, 9 Cal. App. 469, 99 Pac. 552;
Bell vs. *Brigance*, 74 Cal. App. 322, 240 Pac. 50;
Imperial L. Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113.

SEC. 44. (Repealed by Stats. 1933, p. 1629.)

This section concerned the manner of sale of property for delinquent assessments and the rights of the owner or possessor and the irrigation district in relation thereto.

Designation of least quantity, etc.

Best vs. *Wohlford*, 153 Cal. 17, 94 Pac. 98;
Bolton vs. *Terra Bella Irr. Dist.*, 106 Cal. App. 313, 289 Pac. 678.

Priority of tax liens.

Nevada Nat'l Bank vs. *Poso Dist.*, 140 Cal. 344, 73 Pac. 1056;
Henrylyn Irr. Dist. vs. *Patterson* (Colo.), 176 Pac. 493;
(Political Code, section 3787; Sec. 48, *infra*.)

Sale to district must be made on subsequent day.

Glacier Co. vs. *Schlinski*, (Mont.), 300 Pac. 270.

Provision excepting district from payment of fee for certificate of sale not unconstitutional as discriminatory.

Adams vs. *Siee*, 92 Cal. App. 708.

Certificate of Sale

SEC. 45. After the sale the collector shall make out in duplicate a certificate of sale for each lot, piece or tract of land separately assessed and sold, giving a description of the property sold and the amount paid therefor, and stating that it was sold for a delinquent assessment and when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the district, and the other filed in the office of the county recorder of the county in which the property is situated. The district as such purchaser may sell, assign and transfer such certificate of sale for a consideration of not less than the amount of the assessment, penalties and costs. On receiving the certificate of sale the county recorder must file it and make an entry in a book similar to that required of the collector. The certificate of sale may be in substantially the following form, with the blanks properly filled in accordance with the facts in each case:

Certificate of Sale.

_____ Irrigation District No. _____

I, the undersigned collector of _____ Irrigation District, hereby certify that on the _____ day of _____ 19__, I did, after notice given as provided by law, sell to _____ Irrigation District, hereinafter called the purchaser, for the sum of _____ dollars ($_____) that certain real property within said district and in the county of _____, State of California, bounded or described as follows, to wit:

(Insert description)

Said land was assessed to_____.

Said land was sold for a delinquent assessment levied thereon by the board of directors of said district, and the amount aforesaid was the sum due and unpaid under said assessment and the penalties and costs accruing thereon. The purchaser will be entitled to a deed to said property at any time after three years from the date of said sale unless in the meantime said property is redeemed as provided by law.

Witness my hand and the seal of said district this _____ day of _____, 19__.

(District seal)

_____

Collector of _____ Irrigation District.

(Amended, Stats. 1933, p. 1629.)

Wilson vs. *Carter,* 117 Cal. 53, 48 Pac. 983;
Best vs. *Wohlford,* 153 Cal. 17, 94 Pac. 98;
Bruschi vs. *Cooper,* 30 Cal. App. 682, 159 Pac. 728;
Corson vs. *Crocker,* 31 Cal. App. 626, 161 Pac. 287;
McDonough vs. *Cooper,* 179 Cal. 384, 177 Pac. 153;
Adams vs. *Slee,* 92 Cal. App. 708, 268 Pac. 959.
(See section 48, *infra.*)

Recording Certificate of Sale

SEC. 46. The collector, before delivering any certificate, must in a book enter a description of the property sold, corresponding with the description in the certificate, the date of the sale, purchaser's name, and amount for which sold, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use. On filing the certificate with such county recorder the lien of the assessments vests with the purchaser, and is only divested by the payment to him or to the collector for his use, of the purchase money, and a penalty of three-fourths of one per cent per month from the date of sale until redemption.[1] (Amended, 1933, p. 1630.)

Bruschi vs. *Cooper,* 30 Cal. App. 682, 159 Pac. 728;

REDEMPTION OF PROPERTY SOLD FOR DELINQUENT ASSESSMENTS

Method of Redemption

SEC. 47. A redemption of the property sold may be made within three years from the date of purchase, or at any time thereafter before a deed has been made and delivered, by payment in lawful money of the United States to the purchaser or his assignee, or to the collector, of the amount required as provided in section 46 of this act. When payment is made to the collector he must, except when the district holds the certificate of sale, hold the money for and pay it on demand to the purchaser or his assignee. If the district holds the certificate of sale, the collector must pay the redemption money to the treasurer. In each report the collector makes to the board of directors, he must name the persons entitled to redemption money, and the amount due each. On

[1] Chapter 630, Statutes of 1933, which amended sections 42, 43, 45, and 46, and repealed section 44, also contained the following urgency clause:

SEC. 7. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of section 1 of Article IV of the Constitution of the State of California, and shall go into effect immediately.

The following is a statement of the facts constituting such necessity: On account of the agricultural depression, many property owners have been unable to pay their irrigation district assessments. Due to such delinquencies, penalties have accrued and must be paid in order to redeem, and, since the existing penalties and interest are so high, redemptions are not being made. It is imperative that lands be redeemed so that they can be made to produce substantial revenues to maintain and operate the districts, and it is essential that property owners be allowed to redeem their property under less onerous conditions. This act will aid in accomplishing these necessary results and should go into effect immediately.

the presentation of the receipt of the person named in the certificate, or his assignee, or of the collector for his use, for the total amount of the redemption money, the recorder must mark the word "redeem," the date, and by whom redeemed, on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector or his successor in office, upon demand, must make to the purchaser, or his assignee, a deed to the property, which deed shall refer to the date of the sale and state that no person redeemed the property during the time allowed by law for its redemption. The collector shall receive from the purchaser for the use of the district two dollars for making such deed, except when the deed is made to the district. The deed made by the collector may be in substantially the following form, the blanks being filled to show the facts in each case:

Collector's Deed.

_____ Irrigation District.

Whereas, on the _____ day of _____ 19___, the collector of _____ irrigation district did sell to _____ for a delinquent assessment theretofore levied by the board of directors of said district that certain real property within said district and in the county of _____, State of California, bounded or described as follows, to wit:

(Insert description)

And whereas, no person has redeemed said land from said sale and the time for redemption has now elapsed, and said purchaser has demanded a deed to said land; now, therefore,

I, the undersigned collector of said district, do hereby grant to the said _____ all of the real property aforesaid.

Witness my hand and the seal of said district this _____ day of _____, 19___.

[DISTRICT SEAL] _____

Collector of _____ irrigation district.

If a deed shall be demanded pursuant to any sale whereof the certificate shall have been assigned, the foregoing form of deed shall be amended by striking out the words "and said purchaser has demanded a deed to said land" and inserting in lieu thereof substantially the following: "and the certificate of said sale has been assigned to _____, who has demanded a deed to said land." In case partial redemption has been made the above form shall be modified so as to conform to the facts. Where property has been sold to the district and a deed for it has been given to the district as the purchaser, such district shall have the same rights thereto, and to the rents, issues and profits thereof, as a private purchaser. The title so acquired by the district may be conveyed by deed, executed and acknowledged by the president and secretary of the board of directors; provided, that authority to so convey must be conferred by resolution of the board

entered on its minutes fixing the price at which such sale may be made. (Amended, Stats. 1931, p. 440.)

Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728;
Schamblin vs. *Means*, 6 Cal. App. 265, 91 Pac. 1020;
Adams vs. *Slee*, 92 Cal. App. 708, 268 Pac. 959;
Teralta vs. *Shaffer*, 116 Cal. 518, 48 Pac. 613;
Johnson vs. *Taylor*, 150 Cal. 204, 88 Pac. 903.

Right of redemption governed by law in force at time of sale.
San Diego vs. *Childs*, 85 Cal. Dec. 12.

Partial Redemption; Decision of Board of Directors Is Final

SEC. 47a. In all cases where a lot, piece, or parcel of land contained in any assessment has been sold or may hereafter be sold to the district for delinquent assessments and the time for redemption has not expired, a redemption of a portion of said lot, piece or parcel of land may be made, separately from the whole assessment, of any such lot, piece or parcel of land as follows:

If such lot, piece or parcel of land has a separate valuation shown on the assessment book, the collector shall estimate the amount due according to the valuation shown on the assessment book, and the redemption shall be made in the manner provided for in sections 46 and 47 of this act. If such lot, piece or parcel of land or such fractional part of such lot, piece or parcel of land does not have a separate valuation shown on the assessment book, the collector shall submit the description of the lot, piece or parcel of land, or the fractional part thereof, upon which redemption is requested to the assessor, who must place a valuation thereon. The collector shall estimate the amount due according to the valuation so placed upon the parcel upon which redemption is requested, and shall then refer said proposed redemption to the board of directors who may confirm, modify or set aside the act of the assessor, or the board may refuse to authorize such redemption, and the decision of the board shall be final and conclusive, and the collector shall conform therewith and the redemption, if authorized by said board of directors, shall be made in the manner provided for in sections 46 and 47 of this act. (Added, Stats. 1931, p. 378.)

Redemption Upon Dissolution of District

SEC. 47½. The period herein prescribed for the redemption of properties sold for delinquent assessments shall not operate as a bar to the dissolution of any irrigation district. If any land has been sold for delinquent assessments of a district in process of dissolution, or in a district which has been dissolved, and the time allowed for redemption has not expired, the owner of such property or anyone in interest may redeem the same by paying the amount due thereon, computed as provided in section 46 of this act, to the county treasurer, who must issue his receipt therefor, and upon the presentation of such receipt the county recorder must cancel the certificate of sale in the manner required in the preceding section. In the event any land has been sold for nonpayment of assessments as herein provided, and no redemption has been made within the time allowed in this act therefor, in any district which may have been dissolved before the expiration of said redemption period, then a deed for the property sold and described in the certificate of sale must be made to the purchaser upon demand by

the county treasurer of the county in which said irrigation district is or was situated. Such deed shall contain all the recitals of the certificate of sale, and in addition thereto, a recital that the district has been dissolved, and a deed executed in pursuance of the authority given in this section. A deed so executed shall have the same force and effect as if executed by the collector of an irrigation district. (Amended, Stats. 1927, p. 191.)

Tax Deeds

SEC. 48. A deed issued by the collector of an irrigation district as provided in section 47 hereof, when duly acknowledged or proved, is prima facie evidence that: (a) The property was assessed as required by law; (b) the property was equalized as required by law; (c) the assessments were levied in accordance with law; (d) the assessments were not paid; (e) at a proper time and place the property was sold as prescribed by law, and by the proper officer; (f) the property was not redeemed; (g) the person who executed the deed was the proper officer. Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of all encumbrances, except when the land is owned by the United States, or this State, in which case it is prima facie evidence of the right of possession. (Amended, Stats. 1931, p. 441.)

Cooper vs. *Miller*, 113 Cal. 238, 45 Pac. 325;
Escondido H. S. Dist. vs. *Escondido Seminary*, 130 Cal. 128, 62 Pac. 401;
Best vs. *Wohlford*, 144 Cal. 733, 78 Pac. 293;
Best vs. *Wohlford*, 153, Cal. 17, 94 Pac. 98;
Haese vs. *Heitzig*, 159 Cal. 569, 114 Pac. 816;
McDonough vs. *Cooper*, 179 Cal. 384, 177 Pac. 153;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728;
Corson vs. *Crocker*, 31 Cal. App. 626, 161 Pac. 287;
Stewart vs. *Atkinson*, 96 Cal. App. 50, 273 Pac. 606;
Commercial Nat. Bank vs. *Schlitz*, 6 Cal. App. 174, 91 Pac. 750.

All taxes and liens are on an equality.
La Mesa etc. Irr. Dist. vs. *Hornbeck*, 216 Cal. 730.

A tax deed, latest in time, is prior in right.
Cooper vs. *Gileson*, 74 Cal. App. Dec. 395.

Releases to District Property

SEC. 48a. The board of directors may, on such terms as it deems for the best interests of the district, take a deed or release from any claimant, including any other taxing agency, to an interest in any property owned or claimed by the district. This shall include the right to purchase under and pursuant to section 3897 of the Political Code any land on which the district has a claim, lien or deed for unpaid assessments or taxes or any other right, title, interest or claim. (Amended, Stats. 1933, p. 2468.)

Evidence of Assessment

SEC. 49. The assessment book or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments against any person, or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and

unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

Bruschi vs. *Cooper*, 31 Cal. App. 682, 159 Pac. 728;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171.

Mistakes in Description of Owner

SEC. 50. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner, or supposed owner, or other mistake relating to the ownership thereof affects the sale, or renders it void or voidable.

Escondido H. S. Dist. vs. *Escondido Seminary*, 130 Cal. 128, 62 Pac. 401;
Commercial Nat'l. Bank vs. *Schlitz*, 6 Cal. App. 174, 91 Pac. 750;
Bruschi vs. *Cooper*, 30 Cal. App. 682, 159 Pac. 728.

Settlements Between Secretary and Collector

SEC. 51. On the first Monday in each month, the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath showing: (a) An account of all his transactions and receipts since his last settlement; (b) that all money collected by him as collector has been paid. The collector shall also file in the office of the secretary, on said first Monday in each month, the receipt of the treasurer for the money so paid.

REDEMPTION OF BONDS AND PAYMENT OF INTEREST

SEC. 52. Upon presentation of any matured bond of the district, the treasurer shall pay the same from the bond principal fund, and upon presentation of any matured interest coupon of any bond of the district, the treasurer shall pay the same from the bond interest fund. If money is not available in the fund designated for the payment of any such matured bond or interest coupon, it shall draw interest at the rate of seven per cent per annum from the date of its presentation for payment until notice is given that funds are available for its payment, and it shall be stamped and provision made for its payment as in the case of a warrant for the payment of which funds are not available on its presentation.

Whenever there is in any fund of the district money in excess of that required for the purposes of such fund up to the time when any part of the next annual assessment levied in the district will become delinquent, the board of directors of the district may purchase with such surplus money, or any part thereof, any of its bonds not then due, and may cancel the bonds so purchased or hold the same as a part of its assets until such time as the board may determine that it is for the best interests of the district that such bonds or any of them be sold, or shall cancel the same at their date of maturity. (Amended, Stats. 1931, p. 172.)

Statute of limitations.

Sechrist vs. *Rialto Irr. Dist.*, 129 Cal. 640, 62 Pac. 261;
Curtis vs. *Rialto Irr. Dist.*, 44 Cal. App. 738, 187 Pac. 117;
Farwell vs. *San Jacinto and P. V. Irr. Dist.*, 49 Cal. App. 167, 192 Pac. 1034;
Hewel vs. *Hogin*, 3 Cal. App. 248, 84 Pac. 1082.

Bonds paid in order of presentation.

Bates vs. *McHenry*, 123 Cal. App. 81.

Payment of Assessments With Matured Bonds and Coupons

SEC. 52a. Notwithstanding any of the other provisions of this act any owner of land within the district who is the holder of any matured bond or interest coupon issued by the district, which bond or interest coupon remains unpaid by reason of insufficiency of money in the bond principal fund or bond interest fund, as the case may be, is authorized to apply the credit represented by such unpaid bond or coupon as a medium of exchange in the payment of assessments levied against the lands of such person in the manner hereinafter specified.

Upon presentation and surrender to the treasurer of the district of such matured bonds or interest coupons, or both, the treasurer shall issue to the holder a memorandum in writing, in duplicate, indicating the amount of credit represented by such bonds or coupons, or both, to which such holder is entitled to apply on such assessments.

The collector shall accept the credit memorandum in lieu of lawful money for that portion of the total assessment levied on the lands of the holder of such bonds or coupons equivalent to the amount of such assessment as was levied to pay the interest and maturing principal of the bonds of the district, together with penalties, interest and costs in case of delinquency. The balance of the assessment shall be paid in money. The collector shall indorse upon such credit memorandum the amount of credit applied on the assessment and the balance, if any, not so applied, and retain one copy of said memoranda to be used in settling his accounts with the secretary and treasurer.

The treasurer of the district shall accept such credit memoranda, to the extent that the same have been applied upon such assessment, as the equivalent of money. The treasurer shall thereupon cancel the bonds and coupons for which such credit was given if the entire amount of the credit memoranda has been applied to the payment of assessments and in the event that only a portion of the credit has been applied, then the treasurer shall indorse upon the face of such bond or coupon the fact that the same has been paid in part to the extent of the credit so applied and return the bond or coupon so indorsed to the holder. If no part of the credit represented by such memoranda is applied to the payment of assessments, as herein provided, the treasurer shall, upon surrender of the credit memoranda, cancel the same and deliver the bond or coupon to the owner.[1] (Add'l, Stats. 1933, p. 532.)

CONSTRUCTION OF WORKS

Awarding of Contracts; Procedure and Requirements

SEC. 53. Before the construction of any work to be paid for with the proceeds of the sale of bonds, or a special assessment levied in accordance with section 34 or section 59 of this act, the board of directors shall give notice, by publication thereof three times, to wit, once a week for three successive weeks, in a newspaper published in the county in which the office of the district is located, or, if no newspaper is published therein, then in such publication as the board may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice.

[1] See, also, p. 39, Default of Irrigation District in Payment of Indebtedness.

Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor and that the contract will be let to the lowest responsible bidder, or bidders, but that any or all bids may be rejected, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder or bidders; but the board may reject any bid or bids or may reject all bids and readvertise for proposals or may proceed to construct the work under its own superintendence; provided, that in case of emergency or urgent necessity for any such work, the board of directors, by unanimous vote of those present at any regular or special meeting, may award contracts therefor without advertising for bids, but the cost of such work shall not exceed five hundred dollars and such additional amount as shall be equal to five cents for each acre of land in the district. Contracts for the purchase of material to be furnished or used by the district in any such work shall be awarded to the lowest responsible bidder or bidders after such notice as the board of directors may deem proper. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for at least twenty-five per cent of the amount of the estimated contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer of the district and be subject to approval by the board. (Amended, Stats. 1931, p. 1897.)

Healey vs. *Anglo Bank, Ltd.*, 5 Cal. App. 278, 90 Pac. 54;
Twohy Bros. Co. vs. *Ochoco Irr. Dist.* (*Ore.*), 210 Pac. 873;
See section 9 of Stats. 1917, p. 243.

Installation of fish screens may be required by injunction
People vs. *Glenn-Colusa Irr. Dist.*, 127 Cal. App. 30.

Investigations and Reports by State Engineer

SEC. 53a. During the construction of any irrigation works to be paid for out of the proceeds of any bond issue which has been certified by the State Irrigation District Bond Commission as provided in the act creating said commission, the State Engineer shall have access to all plans, specifications, and records of such construction, and shall from time to time make such investigations and such reports to the board of directors of the district as he shall deem to be in the interest of the public or of the district. (Added, Stats. 1917, p. 768.)

Imperial L. Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113.

Payment of Claims; Duty of County and District Treasurers

SEC. 54. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary; provided, that the board may draw from time to time, from the construction fund, and deposit in the county treasury of the county where the office of the board is situated any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same and place the same to the credit of said district,

and he shall be responsible upon his official bond for the safekeeping and disbursement of the same, as in this act provided. He shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president, and attested by the secretary. The said county treasurer shall report, in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceding, and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board. The district treasurer shall also report to the board, in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceding, and the amount and items of expenditures, and said report shall be verified and filed with the secretary of the board.

Irrigation district not subject to attachment or execution.
Irilarry vs. *San Diego*, 186 Cal. 535, 199 Pac. 1041.

Negotiability and validity of warrants.
Danby vs. *Starlight Irr. Dist.* (Ore.), 157 Pac. 1066;
Interstate Trust Co. vs. *Steele* (Colo.), 173 Pac. 873–5.

Perry vs. *Otay Irr. Dist.*, 127 Cal. 565, 60 Pac. 40;
Carmichael vs. *Riley*, 56 Cal. App. 409, 205 Pac. 478;
Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 253;
Wilbur vs. *Tia Juana Irr. Dist.*, 94 Cal. App. 511;
State vs. *Dilworth* (Mont.), 258 Pac. 216.

Expenses of Officers and Employees

SEC. 54a. All claims or demands against any irrigation district presented by any member of the board of directors or by any other officer or employee thereof, for mileage, personal expenses, or for money expended by the claimant for and on behalf of the irrigation district, must be filed with the board of directors of such irrigation district upon form of demand or claim to be furnished by the district. Such claims or demands shall be itemized in detail showing dates of, place where and purpose for which any money claimed was expended and the miles traveled and purposes of trips for which mileage is claimed and such other matters as the board may require. All such claims or demands must be sworn to by the director, officer, or employee presenting the same, before the secretary of the board of directors, who is hereby authorized to administer such oath, or before any other officer duly authorized to administer oaths, which such verification must state in substance that the money therein claimed was actually expended or the mileage therein stated was actually traveled for and on behalf of the irrigation district and in pursuance of the duties of the director, officer, or employee, presenting the claim; that said claim or demand is presented in good faith and has not theretofore been paid. (Added, Stats. 1933, p. 2468.)

Financial and Progress Reports; Examination and Report by State Engineer

SEC. 54½. During the construction of any work to be paid for out of the proceeds of the sale of any bonds of any irrigation district within this State, the secretary of the board of directors shall, within one week after each regular meeting of said board, forward to the State Engineer copies of all reports made to said board as to the progress of said work and a statement of the amounts paid for the doing of any part of said

work. Immediately after the publication of the statement of the financial condition of any irrigation district within this State, required by section 14 of this act to be made annually, the board of directors of said district shall cause a copy of said statement and a report stating the general condition of any works constructed or acquired by said district and whether or not the plan of irrigation adopted by the district is being successfully carried out and any other matters which the board may deem proper, to be forwarded to the State Engineer, who shall examine said statement and report and make to said board such recommendations and comments as he may deem proper. The State Engineer may at any time make or cause to be made an examination of the affairs of any irrigation district within this State or call upon the authorities of such district for such information as he may desire and make such report thereon as he may deem advisable. (Added, Stats. 1913, p. 1000.)

Tolls for Use of Water

SEC. 55. For any of the purposes of this act, or of any act supplementary hereto, the board of directors of any irrigation district may, in lieu (either in whole or in part) of levying assessments as herein provided, fix and collect rates of tolls or charges for the use of water which may include a stand-by or carrying charge notwithstanding the water is not actually used, or any other public use of which the district is in charge, under such reasonable rules and regulations as the board may prescribe, which may provide, in the case of water for irrigation, that tolls or charges will be payable only in case of the delivery of water in excess of a specified quantity per unit of land. (Amended, Stats. 1931, p. 246.)

District can not fix tolls for lands served outside of district.

Henderson vs. *Oroville-Wyandotte Irr. Dist.*, 207 Cal. 215, 277 Pac. 487;
See also case same title 2 P. (2d) 803;
San Diego vs. *La Mesa, L. G. & S. V. Irr. Dist.*, 63 Cal. App. Dec. 777, 292 Pac. 1082.

Hughson vs. *Crane*, 115 Cal. 401, 47 Pac. 120;
Mitchell vs. *Patterson*, 120 Cal. 286, 52 Pac. 589;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Wores vs. *Imperial Irr. Dist.*, 193 Cal. 609, 227 Pac. 181;
Danley vs. *Merced Irr. Dist. et al.*, 66 Cal. App. 97, 226 Pac. 847;
Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100;
Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959;
Rutherford vs. *Oroville-Wyandotte Irr. Dist.*, 83 Cal. Dec. 304;
Rutherford vs. *Oroville-Wyandotte Irr. Dist.*, 85 Cal. Dec. 639.

Condemnation of Rights of Way

SEC. 56. The board of directors shall have power to construct any of the works of the district across any stream of water, watercourse, street, avenue, highway, road, railway, canal, ditch, flume or other property subject to or devoted to public use, in such manner as to afford security to life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner as not to have impaired unnecessarily its usefulness. If the owner or owners of any land, easement or franchise so to be crossed can not agree with the district as to the amount to be paid therefor or the location of such crossing or any other matters in connection therewith, the same shall be determined and

ascertained in all respects as is in this act provided in respect to the taking of land. In case any street, road, highway, railroad, canal, or other property subject or devoted to public use shall become subject to flooding or other interference by reason of the construction or proposed construction of any works of the district, the board of directors of the district may acquire by agreement or condemnation the right so to flood or otherwise interfere with such property, whether it be publicly or privately owned, and if such right be acquired by condemnation, the judgment may, if the court shall find that public necessity or convenience so requires, direct the district to relocate such street, road, highway, railroad, canal or other property in accordance with plans prescribed by the court; and if by such judgment or by agreement the district shall be required to relocate any such street, road, highway, railroad, canal or other property subject or devoted to public use, the board shall have power to acquire in the name of the district, by agreement or condemnation, all rights of way and other property necessary or proper for compliance with such agreement or such judgment of condemnation and thereafter to make such conveyances of such relocated street, road, highway, railroad, canal, or other property as may be proper to comply with such agreement or judgment. The right of way is hereby given, dedicated and set apart to locate, construct and maintain any of the works of the district over and through any of the lands which are now or may become the property of this State; and also there is given, dedicated and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this State within the district. (Amended, Stats. 1927, p. 194.)

McPherson vs. *Alta Irr. Dist.*, 14 Cal. App. 353, 112 Pac. 193;
MacCammelly vs. *Pioneer Irr. Dist.* (Idaho), 105 Pac. 1076;
City of Nampa vs. *Nampa, etc. Dist.* (Idaho), 131 Pac. 8.

DIRECTORS AND OTHER OFFICERS

Compensation

SEC. 57. The directors, when sitting as a board or acting under the orders of the board, shall receive not to exceed eight dollars per day and ten cents per mile for each mile actually traveled from their respective places of residence to the office of the board, and returning therefrom, and actual and necessary expenses paid while engaged in official business under the orders of the board; provided, that in irrigation districts containing five hundred thousand acres or more the directors, in lieu of said per diem, shall each receive a salary of two hundred dollars per month. The board shall fix the compensation to be paid to all officers named in this act, to be paid out of the treasury of the district; provided, that the board shall, upon the petition of at least fifty freeholders within the district therefor, submit to the electors at any general election a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board not less than twenty days, nor more than forty days prior to a general election and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this act. (Amended, Stats. 1927, p. 251.)

Rose vs. *Superior Court*, 80 Cal. App. 739, 252 Pac. 765.

Interest in Contracts by Directors and Officers Prohibited

SEC. 58. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SPECIAL ASSESSMENTS

Election on Special Assessments

SEC. 59. The board of directors may at any time call a special election and submit to the qualified electors of the district the question whether a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes of this act or of any act supplementary hereto. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section 30d of this act. The notice must specify the amount of money proposed to be raised, and the purpose or purposes for which it is intended to be used, and it may state that said assessment shall be levied in two or three annual installments and specify the amount of the installment to be levied in each year. At the special election the ballots shall contain the words "Assessment—Yes" or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall, at the time of the annual levy hereunder, levy a sum sufficient to raise the amount voted, or, if the notice of election shall have provided for levying said assessment in annual installments, the board of directors shall, at the time of the annual levy in each of the years specified in said notice, levy such assessment as shall raise the amount of the installment provided in said notice to be raised in said year; provided, however, that in case of an unexpected emergency by which the flow of water in the canal or other supply is interrupted, the amount of the indebtedness, incurred in the repair of the works of said district, caused by such interruption, not to exceed in any one year forty thousand dollars, may also, in addition to the assessments hereinbefore provided for, be levied by the adoption of a resolution by at least four-fifths of the members of the board of directors, at the time of the levying of the annual assessment provided for in this act, without the submission of the question of such levy to a vote, as in this section hereinbefore provided. (Amended, Stats. 1919, p. 668.)

Tregea vs. *Owens*, 94 Cal. 317, 29 Pac. 643;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 26 Cal. App. 529, 147 Pac. 593;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 166 Cal. 491, 137 Pac. 234;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 668, 161 Pac. 116;
McDonough vs. *Cooper*, 179 Cal. 384, 177 Pac. 153;
Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223;
Danley vs. *Merced Irr. Dist.*, 66 Cal. App. 97, 226 Pac. 847;
Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100.

Rate of Assessments

SEC. 60. The rate of assessments levied under the provisions of this act shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment roll for the current year, and then dividing the sum to be raised by the remainder of such aggregate assessed value. Special assessments shall be computed and entered by the secretary and collected as a part of the regular assessment levied hereunder, and, when collected, shall be paid into the district treasury for the purpose or purposes specified in the notices calling the respective elections at which they were voted. (Amended, Stats. 1919, p. 669.)

McDonough vs. *Cooper*., 179 Cal. 384, 177 Pac. 153;
Stevens vs. *Melville* (Utah), 175 Pac. 602;
Ser-Vis vs. *Victor Valley Irr. Dist.*, 190 Cal. 732, 214 Pac. 223.

INCURRING INDEBTEDNESS

Power to Incur Indebtedness Restricted

SEC. 61. The board of directors or other officers of the district shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the levying of the first assessment, incur indebtedness in such sum or sums as shall amount to two thousand dollars, or, if the district shall contain more than four thousand acres, to one-half as many dollars as there are acres of land in the district, and may cause warrants of the district to be issued therefor, bearing interest at not more than seven per centum per annum, said rate to be fixed by the board of directors. Each such warrant shall be made payable on a date not later than the first day of July next after the first assessment in the district shall be levied, and if not paid when presented on the due date or thereafter shall be registered and the amount due thereon shall draw interest as provided in section 61a of this act. Nothing contained in this section shall be construed as limiting the right of the board to enter into any contract or lease for any lands, waters, water rights or other property as elsewhere in this act authorized and by such lease or contract to bind the district for the payment of the consideration specified in such lease or contract, but if the smallest payment to be made under such lease or contract in any year exceeds an amount equal to ten cents an acre for all the land in the district, such lease or contract shall not be valid unless approved by the commission authorized by law to approve the bonds of irrigation districts as legal investments for savings banks, or unless an assessment sufficient to meet all the payments to become due under such lease or contract shall have been or shall be authorized for that purpose in accordance with section 59 of this act. (Amended, Stats. 1921, p. 1108.)

Mitchell vs. *Patterson*, 120 Cal. 286, 52 Pac. 589;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491;
Ser-Vis vs. Victor Valley Irr. Dist., 190 Cal. 732, 214 Pac. 223;
N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore.), 211 Pac. 781;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Danley vs. *Merced Irr. Dist.*, 66 Cal. App. 97, 226 Pac. 847;

Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100;
People vs. *Honey Lake Valley Irr. Dist.*, 77 Cal. App. 367, 246 Pac. 819;
Crawford vs. *Imperial Irr. Dist.*, 200 Cal. 318, 253 Pac. 726;
Wilbur vs. *Tia Juana Irr. Dist.*, 94 Cal. App. 511, 271 Pac. 514.

Registration and Payment of Warrants

SEC. 61a. Whenever any warrant of the district payable on demand is presented to the treasurer for payment when funds are not available for the payment thereof, it shall thereafter draw interest at a rate to be determined by resolution of the board of directors, not, however, to exceed seven per centum per annum, until public notice is given that such funds are available. Upon the presentation of any such warrants for payment, other than warrants issued under the provisions of section 61 hereof, when funds of the district are not available to pay the same, the treasurer of the district shall endorse thereon the words "funds not available for payment," with the date of presentation and shall specify the interest that such warrants shall thereafter bear and shall sign his name thereto. He shall keep a record showing the number and amount of each such warrant, the date of its issuance, the person in whose favor it was issued, and the date of its presentation for payment. Whenever there is sufficient money in the treasury to pay all such outstanding warrants or whenever the board of directors shall order that all such warrants presented for payment prior to a certain date, be made and there is sufficient money available for such payments, the treasurer shall give notice in some newspaper published in the district, or, if none is published therein, then in some newspaper published in the county in which the district or any portion thereof is situated, or, if none is published in such county, then the treasurer shall post such notice conspicuously in the place in which the board of directors of the district holds its regular meetings, stating that he is prepared to pay all warrants of the district for the payment of which funds were not available upon their original presentation, or all such warrants which were presented for payment prior to the date fixed by the board of directors, as the case may be, and no further description of the warrants entitled to payment shall be made in such notice. Upon the presentation of any warrant entitled to payment under the terms of such notice, the treasurer shall pay it, together with interest thereon at the rate specified by the board of directors, from the date of its original presentation for payment to the date of the first publication or posting of said notice, and all warrants for the payment of which funds are declared in said notice to be available shall cease to draw interest at the time of the first publication or posting of said notice. The treasurer shall enter in the record hereinbefore required to be kept, the dates of the payment of all such warrants, the names of the persons to whom payments are made and the amount paid to each person.

No action or proceeding shall be maintained to enforce the payment of any such warrant or to require the levy of assessment therefor unless such action or proceeding be commenced within four years from the date of the original presentation of such warrant to the treasurer for payment; provided, however, that the board of directors is hereby authorized, subject to the consent of the California Districts Securities Commission to enter into agreement, either individually or collectively,

with the holder or holders of any such warrant or warrants, fixing the time and method of, provision for and allocation of funds for the payment thereof and may by such agreement, waive, as therein set out, or otherwise waive, the time of commencing any action or proceeding thereon. (Amended, Stats. 1933, p. 1316.)

District may waive benefit of defense of statute of limitations.
Howel vs. *Hogin*, 3 Cal. App. 248, 84 Pac. 1002.

Carter vs. *Tilghman*, 119 Cal. 104, 51 Pac. 34;
People vs. *Honey Lake Valley Irr. Dist.*, 77 Cal. App. 367, 246 Pac. 819.

Acquisition of Irrigation Works

SEC. 61b. The board of directors of irrigation districts may acquire, by purchase or condemnation, the irrigation system, canals and works through which lands in such districts have been or may be supplied with water for irrigation, or other property necessary or proper for the purposes of the district, and may exchange bonds of such irrigation district for such system or canals or works or other property or for any portion thereof, or for any interest therein or for the capital stock of any corporation owning such system or other property or any portion thereof, upon such terms and conditions as the said board of directors may deem best. Such irrigation system, canals and works or other property necessary for the purposes of the district may be acquired and held subject to any liens, encumbrances or obligations thereon at the time of such acquiring. (Amended, Stats. 1931, p. 247.)

Exchange of bonds for property.
Stimson vs. *Alessandro Dist.*, 135 Cal. 389, 67 Pac. 1034;
Hughson vs. *Crane*, 115 Cal. 404, 47 Pac. 120;
Stowell vs. *Rialto Dist.*, 155 Cal. 215, 100 Pac. 248;
Ham vs. *Grapeland Dist.*, 172 Cal. 611, 158 Pac. 207;
Hooker vs. *East Riverside Dist.*, 38 Cal. App. 615, 177 Pac. 184;
Rialto Dist. vs. *Stowell*, 246 Fed. 294, 297;
Baltes vs. *Farmers Irr. Dist.* (Nebr.), 83 N. W. 83;
Wyman vs. *Searles* (Nebr.), 128 N. W. 801;
O'Neil vs. *Yellowstone Dist.* (Mont.), 121 Pac. 283.

Validity of contract for exchange.
Kinkade vs. *Witherop* (Wash.), 69 Pac. 399;
Board of Directors vs. *Peterson* (Ore.), 128 Pac. 837.

District assumes terms and conditions of purchase.
Henderson vs. *Oroville-Wyandotte Irr. Dist.*, 207 Cal. 295, 277 Pac. 487;
Brooks vs. *Oakdale Irr. Dist.*, 90 Cal. App. 270, 265 Pac. 965;
McIntyre vs. *Consolidated Water Co.*, 205 Cal. 231, 270 Pac. 444;
San Diego vs. *La Mesa, L. G. & S. V. Irr. Dist.*, 63 Cal. App. Dec. 777, 292 Pac. 1082;
Morrison vs. *Smith Bros.*, 80 Cal. Dec. 571, 293 Pac. 53.

The procedure before the Railroad Commission for the valuation of the property of a public utility in condemnation proceedings instituted by a district is prescribed in sections 47 and 70 of the Public Utilities Act (as amended by Stats. 1917, p. 261).

Validity of Bonds

SEC. 61c. Where the board of directors of an irrigation district have exchanged bonds or have agreed to exchange bonds for property rights in any irrigation system or works or other property or for any interest therein under the provisions of section 61b of this act, the court shall, in any proceeding brought under the provisions of section 68 of this act, by its decree determine the validity of all bonds issued or to be issued under any contract or contracts for the exchange of

bonds for property interests and by its decree shall determine whether the bonds provided for in said contracts, when delivered to the person or corporation entitled thereto under the terms of any such contract, shall constitute valid obligations of said irrigation district as against all persons. (Amended, Stats. 1931, p. 247.)

USE OF WATER

Rotation of Use of Water by Water Commissioners

SEC. 62. In case the volume of water in any stream or river shall not be sufficient to supply the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners, constituted as hereinafter provided, to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. Said water commissioners shall consist of the chairman of the board of directors of each of the districts affected.

Ditch Flowage During High Water

SEC. 63. It shall be the duty of the board of directors to keep the water flowing through the ditches under their control to the full capacity of such ditches in times of high water.

SEC. 64. (This section related to navigation and vested rights; repealed, Stats. 1917, p. 915.)

Compensation for Infringement of Rights

SEC. 65. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal, or ditch from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of this State authorizing the taking of private property for public uses.

See Const., Art. I, Sec. 14.
Tormey vs. *Anderson-Cottonwood Irr. Dist.*, 53 Cal. App. 559, 200 Pac. 814.

Taking property previously dedicated to public use.
Henderson vs. *Oroville-Wyandotte Irr. Dist.*, 207 Cal. 215, 277 Pac. 487; See, also, case same title 2 P. (2d) 803;
Turlock Irr. Dist. vs. *Sierra, etc. Co.*, 69 Cal. App. 150, 230 Pac. 671;
Mono Power Co. vs. *Los Angeles*, 284 Fed. 784;
East Bay Mun. Utility Dist. vs. *Railroad Com.*, 194 Cal. 603, 229 Pac. 949.

EXEMPTION OF DISTRICT PROPERTY FROM TAXATION

SEC. 66. The rights of way, ditches, flumes, pipe lines, dams, water rights, reservoirs, and other property of like character, belonging to any irrigation district, shall not be taxed for State and county or municipal purposes.

Constitution of California, Sec. 1, Art. XIII;
Reclamation Dist. vs. *Co. of Sacramento*, 134 Cal. 177, 66 Pac. 668;

Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060;
Crow Creek Irr. Dist. vs. *Crittenden* (Mont.), 227 Pac. 63;
La Mesa, etc. Irr. Dist. vs. *Hornbeck*, 216 Cal. 730.

Liability for Assessments for Local Benefits.

Recl. Dist. vs. *East Bay, etc. Dist.*, 91 Cal. App. 149, 266 Pac. 969;
City of Fresno vs. *Fresno Irr. Dist.*, 72 Cal. App. 503, 237 Pac. 772;
Southern Pacific Co. vs. *Stibbens*, 103 Cal. App. 664, 285 Pac. 374;
Inglewood vs. *Los Angeles*, 207 Cal. 697, 280 Pac. 697.

FUNDS

Funds Established

SEC. 67. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned, to wit: bond principal fund, bond interest fund, construction fund, general fund.[1] (Amended, Stats. 1931, p. 173.)

Hughson vs. *Crane*, 115 Cal. 404, 47 Pac. 120;
Buschmann vs. *Turlock Irr. Dist.*, 47 Cal. App. 321, 190 Pac. 491.
Buena Vista Dist. vs. *Shields*, 126 Cal. App. 241.

Unexpended Money

SEC. 67a. Whenever an object for which money has been specifically provided by assessment or by bond issue has been accomplished and any money provided therefor remains unexpended, the same shall in the discretion of the board of directors be transferred to the general fund and thereafter be available for any of the purposes of this act. (Amended, Stats. 1917, p. 769.)

ACTIONS TO DETERMINE VALIDITY OF BONDS AND LEVY OF ASSESSMENTS

Actions by Board of Directors

SEC. 68. The board of directors may, at any time after the issue of any bonds or the levy of any assessment herein provided for, bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds or such levy of assessments; such action shall be in the nature of a pro-

[1] The 1931 amendment to Sec. 67, Stats. 1931, p. 172, also contained the following:

"SEC. 3. This act is hereby declared to be an urgency measure, deemed necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of article four of the constitution of the State of California, and as such it shall take effect immediately.

The following is a statement of the facts constituting such urgency:

Under the continuance of the conditions brought on by the agricultural depression many irrigation districts in this state have experienced an increased delinquency in the payment of assessments, which has brought about the necessity for an eventual refunding of their bonded obligations. Under the law as it at present exists a bond fund of an irrigation district may be exhausted by the presentation of maturing bonds, whereas the fund was created by the assessment for paying both principal and interest. This situation has brought about a condition in some of these districts where the land owner, unable to meet the full obligation of principal and interest and seeing himself in a a complete default with danger of losing his home and lands, refuses to pay any of the assessment levied upon his land. This brings about a condition of breakdown in the functioning of the district, with the failure to supply water for domestic, irrigation and other purposes, detrimental in the extreme to the peace, health and safety of the communities involved. It is believed that through the passage of this bill before the semiannual period for payment of interest, on July 1st, districts will be enabled to continue their efforts toward refinancing without a breakdown of their functions as irrigation districts."

ceeding *in rem*, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Anyone interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such bonds or assessments. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party may have the right to appeal to the Supreme Court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

Crall vs. *Poso Irr. Dist.*, 87 Cal. 140, 26 Pac. 797;
Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
Rialto Irr. Dist. vs. *Brandon*, 103 Cal. 384, 37 Pac. 484;
Cullen vs. *Glendora Water Co.*, 113 Cal. 503, 39 Pac. 769, 45 Pac. 822, 1047;
In re Central Irr. Dist., 117 Cal. 382, 49 Pac. 534;
People vs. *Linda Vista Irr. Dist.*, 128 Cal. 477, 61 Pac. 86;
People vs. *Perris Irr. Dist.*, 132 Cal. 289, 64 Pac. 173;
People vs. *Perris Irr. Dist.*, 142 Cal. 601, 76 Pac. 381;
Western Union Tel. Co. vs. *Modesto Irr. Dist.*, 149 Cal. 662, 87 Pac. 190;
Fogg vs. *Perris Irr. Dist.*, 154 Cal. 209, 97 Pac. 316;
Haese vs. *Heitzig*, 159 Cal. 569, 114 Pac. 816;
In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198;
Imperial Water Co. vs. *Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Imperial Land Co. vs. *Imperial Dist.*, 173 Cal. 660, 161 Pac. 113;
Imperial Land Co. vs. *Imperial Dist.*, 173 Cal. 668, 161 Pac. 116;
Black Canyon Irr. Dist. vs. *Fallon* (Idaho), 122 Pac. 850;
Petition of Board of Directors Unit District (Ore.), 178 Pac. 186-8;
Gray vs. *Cardiff Irr. Dist.*, 51 Cal. App. 304, 197 Pac. 389;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171.

Actions by Assessment Payers

SEC. 69. If no such proceedings shall have been brought by the board of directors, then, at any time within thirty days after the levy of any assessment or issue of any bonds under the provisions of this act, any district assessment payer may bring an action in the superior court of the county where the office of the board of directors is located, to determine the validity of any such assessment or such bonds. The board of directors shall be made parties defendant, and service of summons shall be made on the members of the board personally. Said board shall have the right to appear and contest such action. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined in the manner and within the time therein provided.

Sechrist vs. *Rialto Irr. Dist.*, 129 Cal. 640, 62 Pac. 261;
Henry vs. *Vineland Irr. Dist.*, 140 Cal. 376, 73 Pac. 1061;
Western Union Tel. Co. vs. *Modesto Irr. Dist.*, 149 Cal. 662, 87 Pac. 190;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 668, 161 Pac. 116;
Gray vs. *Cardiff Irr. Dist.*, 51 Cal. App. 304, 197 Pac. 389;
Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 208 Pac. 304;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959.

Consolidation of Actions

SEC. 70. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113

Immaterial Errors or Omissions Disregarded

SEC. 71. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten days from the filing of the notice of intention. The costs on any hearing or contest herein provided for, may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

Lahman vs. *Hatch*, 124 Cal. 1, 56 Pac. 821;
Palmdale Irr. Dist. vs. *Rathke*, 91 Cal. 538, 27 Pac. 783;
Board of Directors vs. *Abila*, 106 Cal. 365, 39 Pac. 793;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113;
La Mesa, L. G. & S. V. Irr. Dist. vs. *Halley*, 197 Cal. 50, 239 Pac. 719.

Statute of Limitations

SEC. 72. No contest of any thing or matter herein provided shall be made other than within the time and manner herein specified, and in any such action all findings of facts or conclusions of said board of directors, or of the board of supervisors upon all matters, shall be conclusive, unless such action was instituted within six months after such finding or conclusion was made. (Amended, Stats. 1915, p. 1370.)

Imperial Water Co. vs. *Board of Sup'rs*, 162 Cal. 14, 120 Pac. 780;
Imperial Land Co. vs. *Imperial Irr. Dist.*, 173 Cal. 660, 161 Pac. 113;
Miller & Lux vs. *Board of Sup'rs*, 189 Cal. 254, 208 Pac. 304;
N. P. Ry. Co. vs. *John Day Irr. Dist.* (Ore.), 211 Pac. 781;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Willard vs. *Glenn-Colusa Irr. Dist.*, 201 Cal. 726, 258 Pac. 959.

VIOLATION OF DUTY BY OFFICER

Liability on Official Bonds; Liability Insurance

SEC. 73. For any wilful violation of any express duty herein provided for, on the part of any officer herein named, he shall be liable upon his official bond, and be subject to removal from office, by proceedings brought in the superior court of the county wherein the office of the board of directors of the district is located, by any assessment payer of the district; but no officer of an irrigation district shall be personally liable for any damage resulting from the operation of the district or from the negligence or misconduct of any of its officers or employees unless such damage was proximately caused by the officer's own negligence or misconduct or by his wilful violation of official duty. Any irrigation district may carry insurance against any liability of the district and/or any of its directors, officers and employees, as such, and

pay the premium for such insurance out of the general fund of the district. (Amended, Stats. 1933, p. 540.)

Applicability of Sec. 165 of the Penal Code.

People vs. *Turnbull*, 93 Cal. 630, 29 Pac. 224.

Recall—see Sec. 28½, *infra*.

Kerr vs. *Superior Court*, 130 Cal. 183;
Whiteman vs. *Anderson-Cottonwood Irr. Dist.*, 60 Cal. App. 234;
Rose vs. *Superior Court*, 80 Cal. App. 739, 252 Pac. 765;
Nisson vs. *Coult*, 96 Cal. App. 611, 274 Pac. 603;
Nisson vs. *Cordua Irr. Dist.*, 204 Cal. 542, 269 Pac. 171;
Hilton vs. *Oliver*, 204 Cal. 535, 269 Pac. 425.
See section 3342 of the Civil Code, *supra*, p. 30.

RELIEF FROM DISTRICT OBLIGATIONS

Procedure

SEC. 73a. The owners or holders in fee of lands which constitute a portion of any irrigation district may jointly or severally file a verified complaint in the superior court in the county in which said land or any portion thereof is situated, for the purpose of releasing said lands from their proportionate share of the bonded indebtedness of said district. Said complaint shall include as defendants in said action the following parties:

(1) The irrigation district in which said lands are situated;

(2) The names of the members of the board of directors of said district;

(3) All owners and holders of bonds of said irrigation district who shall have registered their names and post-office addresses with the secretary of the irrigation district in which said land is situated, as in this act hereinafter provided;

(4) All persons known or unknown who own or claim to own or claim to have any interest in or to the outstanding bonds of said irrigation district.

Said complaint shall also contain the following statements and allegations:

(1) A description of the real property owned by the plaintiffs situated within the irrigation district;

(2) That the lands described and owned by the plaintiffs are within the exterior boundaries of the irrigation district;

(3) The total amount of the unpaid bonded indebtedness of the irrigation district, including interest on such bonds;

(4) The total assessed valuation of the lands within such district, together with a description of the method of assessment employed by the district;

(5) When the outstanding bonds mature.

(6) The value of the lands described in the petition compared with the value of all other lands within such district;

(7) That the plaintiff or plaintiffs desire to pay their proportion of the total bonded indebtedness of such irrigation district, together with their proportion of the interest thereon and thereafter be relieved from any future assessment or any other charge for or on account of the outstanding bonded indebtedness of said district existing at the time of the filing of the complaint in said action;

(8) Said complaint shall contain a request for the appointment by the court of a referee to make an investigation of the ratio of values of the lands owned by the plaintiff or plaintiffs to the total value of all other lands in such irrigation district, and the just proportion of the bonded indebtedness of such district which the lands described in the complaint shall bear.

After the filing of the complaint in such action, the clerk of the court shall upon request of the plaintiffs or any of them at any time within one year thereafter issue a summons. Such summons shall be served personally upon each of the board of directors and the secretary of such irrigation district and a copy thereof, to which shall be attached a copy of the complaint, shall be mailed by registered mail to any person or persons who have filed their names and addresses with the secretary of such irrigation district as the owner or owners of bonds thereof, and also to any person who is the known owner or holder of any bonds of said district.

All owners or holders of bonds issued by any irrigation district in the State of California shall file with the secretary of the district issuing such bonds his name and address within thirty days after he has become the owner or holder of such bonds and shall specify the number and amount of the bonds owned or held. In the event of the owner or holder's failure to so register his name, address and the security held he thereby waives personal service of summons as in this act provided.

Service of summons upon all unknown owners or holders of bonds and interest coupons shall be made by publication in a newspaper of general circulation printed and published in the county in which the property is located, and in a newspaper of general circulation in the City and County of San Francisco, State of California, and also in the city and county of Los Angeles, State of California, to be designated by the judge of the superior court having jurisdiction of the case, for the period of two (2) consecutive months, as in other cases of service by publication.

After such service of summons has been made as hereinbefore provided, all such unknown persons so served shall have the right to appear and defend such action at any time within thirty (30) days after the completion of the publication of summons. All other defendants shall have the right to appear and defend such action within the respective times provided by law for defendants to appear after service in other actions at law.

After such service has been completed, the prosecution of such action shall be maintained in the same manner and form as provided for the prosecution of other actions of a similar nature.

The claims of any unknown defendants shall be concluded by the judgment in such action as effectually as if the action were brought against such person by his or her name and to the same extent as in case of personal service.

When all of such defendants so served have appeared and answered or defaulted, the said action shall be at issue and tried and determined as in other cases, provided, however, that the court may appoint a referee to ascertain and determine and report to the court the amount of outstanding bonds or bonded indebtedness of such irrigation district existing at the time of the filing of the complaint in said action, and

also to ascertain the proportionate share of the entire bonded indebtedness of such irrigation district that should equitably be borne by the property described in the complaint.

After the referees herein provided for have made their reports, the court may at the instance of any party who has appeared in said action set the cause for trial and proceed as in other civil cases. Upon the conclusion of the trial, the court shall make its findings and enter its judgment decreeing that the plaintiff shall pay the costs of the referee and all other court costs and the amount found due from plaintiffs on account of their proportionate share of the bonded indebtedness of such irrigation district to the treasurer of such irrigation district proportionately as may be decreed by the court, within thirty (30) days after entry of judgment. The amount so paid shall be placed in the bond fund and used only for the purpose of paying or redeeming mature bonds and interest coupons.

Said decree shall also provide that the plaintiffs may, in lieu of cash, deposit bonds of the irrigation district which may have been issued prior to the filing of the complaint and/or matured interest coupons thereon, which bonds and coupons shall be accepted by the treasurer of said district at their face value and canceled.

After such judgment has been entered and payments made by the plaintiffs as provided in said decree, no further levy shall be made by the irrigation district upon assessments of the lands of the plaintiffs as described in the judgment in said action for or on account of the payment or redemption of any bonds and/or coupons issued prior to the filing of the complaint in said action.[1] (Added, Stats. 1933, p. 806.)

EXCLUSION OF LANDS

Exclusion of Lands and Effect Thereof

SEC. 74. The boundaries of any irrigation district now organized or hereafter organized under the provisions of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district.

Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
Herring vs. *Modesto Dist.*, 95 Fed. 705;
Drake vs. *Schoregge, treasurer et al.* (Mont.), 277 Pac. 627;
Hartelson vs. *So. San Joaquin Irr. Dist.*, 20 Cal. App. 324, 128 Pac. 1010.

Petition for Exclusion

SEC. 75. The owner or owners in fee of one or more tracts of land which constitute a portion of an irrigation district may jointly or severally file with the board of directors of the district a petition, praying

[1] *See, also*, p. 39, Default of Irrigation Districts in Payment of Obligations.

that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded, and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

Harelson vs. *So. San Joaquin Irr. Dist.*, 20 Cal. App. 324; 128 Pac. 1010.

Notice of Petition and of Order to Show Cause

SEC. 76. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

Harelson vs. *So. San Joaquin Irr. Dist.*, 20 Cal. App. 324, 128 Pac. 1010; *Drake* vs. *Schoregge, treasurer, et al.* (Mont.), 277 Pac. 627.

Hearing on Petition; Failure to Show Cause Deemed Assent

SEC. 77. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall

be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition.

Harelson vs. *So. San Joaquin Irr. Dist.*, 20 Cal. App. 324, 128 Pac. 1010.

Determination by Board

SEC. 78. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interest of the district that the lands, or some portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interest of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause in writing why the said lands or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition or some defined portion thereof, be excluded from said district; provided, that it shall be the duty of said board to order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom which in the judgment of the board will not be benefited by the operations of the district. (Amended, Stats. 1931, p. 237.)

Harelson vs. *So. San Joaquin Irr. Dist.*, 20 Cal. App. 324, 128 Pac. 1010.
Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
Miller & Lux vs. *Secara*, 193 Cal. 755, 227 Pac. 171;
Hand vs. *El Dorado Irr. Dist.*, 97 Cal. App. 740, 276 Pac. 137;
Shull vs. *Merced Irr. Dist.*, 90 Cal. App. 270, 265 Pac. 965.

Release from Bond Liens

SEC. 79. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall

be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

Recordation of Order of Exclusion

SEC. 80. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion, shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

Office of Director of Excluded Division Declared Vacant

SEC. 81. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided, shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

Reestablishment of Boundaries of Divisions Upon Order of Exclusion

SEC. 82. In case land is excluded from any district, the board of directors thereof, if they deem it desirable, but not less than thirty days before any election in such district, may reestablish the boundaries of the divisions and election precincts within such district. (Amended, Stats. 1921, p. 860.)

Authority of Personal Representative

SEC. 83. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this State, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

Lands Excluded Not Released from Prior Indebtedness

SEC. 84. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said irrigiation district the same as though said petition for its exclusion had never been filed or said decree of execution never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided. Provided, further, that if within ten days of the time of any order excluding any lands from an irrigation district, other lands of equal or greater assessable value, have been included within the district, such excluded lands shall no longer be subject to further assessment by the district, except in the event of proceedings on behalf of the bondholders to enforce the payment by said excluded lands of their pro rata share of any principal or interest due and unpaid on the district's bonded indebtedness incurred while such excluded lands were part of such irrigation district. (Amended, Stats. 1929, p. 689.)

Drake vs. *Schoregge, Treasurer, et al.* (Mont.), 277 Pac. 627.

INCLUSION OF LANDS

Inclusion of Lands and Effect Thereof

SEC. 85. The boundaries of any irrigation district organized or existing under the provisions of this act may be changed to include additional land within such district as hereinafter in this act provided, and the inclusion within any district of any land not contiguous thereto shall be deemed to effect a change of the boundaries of said district; but no change in the boundaries of any district shall impair or affect its organization or its right in or to property, or any of its rights or privileges of whatever kind or nature, nor shall it affect, impair or discharge any contract, obligation, lien or charge for or upon which it

was or might become liable or chargeable had such change of its boundaries not been made. (Amended, Stats. 1927, p. 191.)

Gray vs. *Cardiff Irr. Dist.*, 51 Cal. App. 307, 197 Pac. 384.

Petition for Inclusion

SEC. 86. The holder or holders of title, or evidence of title, or a majority of the holders of title, or evidence of title of any tract of land may file in the office of the board of directors of any irrigation district a petition praying that said tract of land be included within said district; provided, that if there is more than one holder of title or evidence of title of said land, the petitioners must include the holders of title or evidence of title of at least one-half of the area of said land. If any petitioner is the owner of an undivided interest in said land, or any of it, he shall be deemed to be the owner of such proportion of the area of the land in which he has an interest as his interest bears to the whole of such land. Each signature to such petition shall be acknowledged or proved as provided by law for signatures to an instrument to entitle it to be recorded. (Amended, Stats. 1927, p. 192.)

Gray vs. *Cardiff Irr. Dist.*, 51 Cal. App. 304, 197 Pac. 389;
People vs. *Cardiff Irr. Dist.*, 51 Cal. App. 307, 197 Pac. 381.

Notice of Petition and of Order to Show Cause

SEC. 87. The secretary of the board of directors shall cause a notice of the filing of said petition to be given and published in the same manner and for the same time as notices of special elections for the issuance of bonds are required in this act to be given and published. The notice shall state the purpose of the petition and describe the boundaries of the tract of land proposed to be included and give the names of the petitioners, and it shall notify all persons interested in or that may be affected by the proposed inclusion of said land within the district to appear at the office of said board at a time named in said notice for the hearing of said petition and objections thereto and show cause in writing, if any they have, why said land or any of it should not be included as proposed in said petition. The time to be specified in the notice for the hearing of said petition and any objections thereto shall be the regular meeting of the board next after the expiration of the time for the publication of said notice. The petitioners shall advance to the secretary sufficient money to pay for the publication of said notice. (Amended, Stats. 1927, p. 192.)

Hearing on Petition: Failure to Show Cause Deemed Assent

SEC. 88. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all the objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as

will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

Payment of Prior Assessments as Condition Precedent

SEC. 89. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed.

Nile Irr. Dist. vs. *G. S. Co.*, 248 Fed. 861.

Determination by Board

SEC. 90. If the board of directors, after the hearing provided for in section 88 hereof, shall determine that said petition complies with the requirements of section 86 hereof and that the inclusion within the district of the tract of land described in said petition, or some portion or portions thereof, will be for the best interests of the district, and if no protest against the inclusion of such land is made as provided in section 91 hereof, or if such protest be made and enough signatures be withdrawn therefrom so that said protest is no longer sufficient, the board shall order the boundaries of the district to be changed so that said tract of land, or such portion or portions thereof as the board shall deem it for the best interests of the district to include, shall be included within the district, but no land shall be so included unless the board, after the hearing aforesaid, shall determine that it can be irrigated by means of some of the works of the district or by means of practicable works connecting therewith and will be benefited by such irrigation; and if the board determines that only a portion or certain portions of the tract of land described in said petition should be included, said petition shall be dismissed unless the petitioners include a majority of the holders of title or evidence of title of said portion, or of each of said portions, of said tract, representing also at least one-half the area of said portion, or of each of said portions, or unless, within sixty days from the time such determination is made, there shall be filed with the board the consent in writing, acknowledged or proved as required in section 86 hereof, of a majority of the holders of title or evidence of title of said portion, or of each of said portions of said tract of land, representing also at least one-half of the area of said portion or of each of said portions. The order shall describe the boundaries of the land so included within the district, and if said land adjoins any portion of the district the order shall also describe that portion of the boundary of the district which coincides with the boundary of the land so included, and for the purposes of said order the board may cause a survey to be made of such portions of said boundaries as may be deemed necessary. If more than one petition for the inclusion of land has been

presented, the board may in one order include within the district any number of separate tracts of land. Any public land of the United States of America may be included within any irrigation district by such order of the board of directors without any petition therefor except as may be required by the laws of the United States, if such land can be irrigated by means of any of the works of the district or by any practicable works connecting therewith and will be benefited by such irrigation. When the board finds that the inclusion of any land within an irrigation district without condition would work an injury to the land already within the district, the board may prescribe conditions upon such inclusion of land either by providing for priority of right to water for the land already in the district or for the payment of an additional annual charge upon the land included or such other conditions as may to the board seem just. If any such conditions are prescribed by the board all the owners of the land subject to such conditions must, before any order for its inclusion is made, sign an agreement with the district describing the land so to be included and specifying such conditions. The signatures to said agreement must be acknowledged or proved as provided by law for the signatures of instruments to be recorded, and said agreement must be recorded in the office of the county recorder of the county in which such lands are situated, and thereupon and upon the recording of a copy of the order including such lands as hereinafter provided, such lands shall become a part of the district subject to the conditions of said agreement.

Or in lieu of the execution and recording of such agreement signed and acknowledged by the owners of land to be included subject to such conditions the board of directors may adjourn said hearing for not less than thirty days nor more than sixty days and shall give notice of the time and place of such adjourned hearing by publication in a newspaper of general circulation published in the county in which the office of the board of directors is located and in which the lands affected are situate for not less than once a week for three consecutive weeks; said notice so published shall set out at length the conditions proposed to be imposed and directing all persons interested to appear at the time and place specified in said notice and show cause, if any they have, why such conditions should not be imposed. At such hearing, or at any further adjournment thereof duly entered upon the minutes, the board of directors may by resolution adopt, reject, or modify such conditions as may be just and make the order hereinabove provided for containing such of said conditions as may have been adopted and such order shall be final and conclusive upon a copy thereof duly certified by the secretary of the board having been recorded in the office of the county recorder of the county in which the lands affected are situate; provided, that said certified copy of such order shall not be recorded for a period of thirty days from and after the making of such order, during which thirty days a majority of the holders of title or evidence of title of the land described in the petition for inclusion and representing also more than one-half of the area of said tract or tracts of land, may file with the secretary of the board of directors a statement or statements in writing signed and acknowledged in the form required for the conveyance of real property, objecting to the inclusion of such lands with the conditions imposed thereon, whereupon said objections shall be laid

before the board of directors and if the board finds the same to be in the form required by this section and signed by a majority of the holders of title or evidence of title of the tract or tracts of land described in said petition for inclusion, and also representing more than one-half of the area of land described in said petition, then the board of directors shall enter in its minutes an order dismissing said petition for inclusion and no further proceedings shall be had thereon, but such order of dismissal shall be without prejudice to the filing of another petition or other petitions for inclusion of the same land or any part thereof; and provided further, that agreeable to the laws of the United States and the proper regulations or consent of any authorized department thereof, or the laws of this State as the case may be, such conditions as the board of directors shall deem equitable and just may be imposed upon any public lands of the United States or of this State as a part of the order of inclusion without the agreement or hearing provided for in this section. (Amended, Stats. 1929, p. 687.)

Protest to Inclusion

SEC. 91. If a protest against the inclusion of such lands, signed by not less than three per cent of the holders of title or evidence of title to lands within the district and holding the title or evidence of title to not less than three per cent in value of the lands within the district according to the last equalized assessment roll of said district, shall have been presented to the board of directors and upon the hearing of said matter said protest shall not be withdrawn, or after the withdrawal therefrom of any signatures it shall still be signed by not less than three per cent of the holders of title or evidence of title to lands within the district and holding the title or evidence of title to not less than three per cent in value of the lands within the district according to the last equalized assessment roll of said district, or if the board of directors deem it not for the best interests of the district to include therein the lands described in said petition for inclusion, or any of them, the board shall adopt a resolution stating the facts and describing the boundary of the tract of land proposed to be included in the district; but before calling the election provided for in the next section, the board may require an undertaking, with sufficient sureties, from the petitioners for the inclusion of said land conditioned that the petitioners or the sureties will pay all the costs of holding such election in case such inclusion shall be denied. (Amended, Stats. 1921, p. 1000.)

Board of Directors vs. *Peterson* (Ore.), 128 Pac. 837.

Notice of Election; Ballots

SEC. 92. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed

by said act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

Election on Inclusion

SEC. 93. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adoption by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

Election on Inclusion With Conditions Imposed

SEC. 93a. If a sufficient protest against the inclusion of any lands shall have been presented to the board of directors and maintained as provided in section 91, and the board of directors nevertheless finds and declares that the inclusion of said lands or a portion thereof with certain conditions imposed will be for the best interests of the district, the board shall proceed the same as if no protest had been filed until the conditions imposed shall become final as provided by section 90, except that the order changing the boundaries of the district with such conditions upon the lands to be included as may have been imposed shall not be recorded in the office of the county recorder and said order shall not be effective for any purpose until, as the result of an election thereon, which the board shall thereupon order as provided by section 92, it is found and declared by the board that a majority of all the votes cast at such election were in favor of said change in boundaries with the conditions named. Thereupon a certified copy of the order changing the boundaries with the conditions imposed set out therein, together with a certified copy of the order declaring the result of such election, shall be recorded as provided by section 90 and become final. The same procedure regarding such election shall be followed as provided by section 92, except that the ballot cast at such election shall contain the words "For change of boundaries with conditions" or "Against change of boundaries with conditions" and the notice of election, in addition to other requirements, shall contain a brief statement of the conditions imposed. If a majority of all the votes cast at such election shall be against such change of boundaries with conditions, the board shall order that the petition be denied. (Added, Stats. 1931, p. 2206.)

Recordation of Order of Board

SEC. 94. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such

change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

Recording Petition in Minutes

SEC. 95. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

Authority of Personal Representative

SEC. 96. A guardian, an executor or an administrator of an estate, who is appointed as such under the laws of this State, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

Reestablishment of Divisions and Precincts

SEC. 97. In case land is included within any district as aforesaid, the board of directors thereof shall, but not less than thirty days before any election in such district, reestablish the boundaries of the divisions and election precincts within such district, so as to include such land therein and so as to make such divisions as nearly equal in size and population as may be practicable. In case of the inclusion of any land less than thirty days before an election within such district, the inhabitants of the land so included shall not be entitled to vote at such election. (Amended, Stats. 1921, p. 861.)

REDUCTION OF BONDED INDEBTEDNESS

Call for Special Election

SEC. 98. Whenever the board of directors of an irrigation district heretofore organized, or hereafter organized under the provisions of this act, shall determine that the authorized bonded indebtedness of such irrigation district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

Notice of Election and Form of Ballots

SEC. 99. Notice of the said election shall be given in the same manner as provided in section 30 of said act, in relation to calling

special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which said election will be held, and the polling places, as established by said board of directors. The ballots cast at said election shall contain the words, "For reducing bonds—Yes," or "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell such amount of bonds as was stipulated in the said notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

Assent of Bondholders

SEC. 99½. In case there be outstanding bonds of any district desiring to take advantage of the provisions of this act concerning reduction of bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section 79 of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided, shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

LEASE OF WATER

Authority of Board to Lease

SEC. 100. Whenever any irrigation district, heretofore organized, or hereafter organized under the provisions of this act, in the development of its works as by law provided, may have opportunity, without increased expenditure, to utilize the water by it owned or controlled, for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

Procedure

SEC. 101. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated, for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and, if the board thinks proper in such other newspapers as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said notice shall state that the board will receive sealed proposals therefor, that the lease will be let to the

highest responsible bidder, stating the time and place of opening said proposals.

Opening Proposals

SEC. 102. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any or all bids, and readvertise for proposals for the same.

Rentals

SEC. 103. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semiannually, on the thirtieth day of December and thirtieth day of June of each year. All moneys collected, as in this act provided, shall be paid into the treasury, and be apportioned to such funds as may be deemed advisable.

Period of Lease; Forfeiture

SEC. 104. The board shall have power, as in this act provided, to execute a lease for any period not exceeding twenty-five years. If at any time the rental shall not be paid on the days hereinbefore mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days, thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

Bond of Lessee

SEC. 105. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the faithful performance of the covenants of said lease, or give such other evidence of good faith as in their judgment may be necessary.

DESTRUCTION OF UNSOLD BONDS

Call for Special Election

SEC. 106. Whenever there remains in the hands of the board of directors of any irrigation district heretofore organized, or organized under the provisions of this act, after the completion of its ditch system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

La Mesa, L. G. & S. V. Irr, Dist. vs. *Halley,* 197 Cal. 50, 239 Pac. 719.

Notice of Election and Form of Ballots

SEC. 107. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election

shall be given in the same manner as provided in section 30 of this act in relation to calling special elections for the issuance of bonds. The notice of election must state the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date upon which such election is proposed to be held, and the polling places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes," and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

La Mesa, L. G. & S. V. Irr. Dist. vs. *Halley*, 197 Cal. 50, 239 Pac. 719.

Election Results; Destruction of Bonds

SEC. 108. When the vote is canvassed by the board of directors and entered of record, if a two-thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president of the board, in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed; and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

La Mesa, L. G. & S. V. Irr. Dist. vs. *Halley*, 197 Cal. 50, 239 Pac. 719.

GENERAL PROVISIONS

Validity of Existing Districts and Rights Not Affected

SEC. 109. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this State, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued but not sold; nor shall it affect any action which now may be pending.

Tulare Irr. Dist. vs. *Collins*, 154 Cal. 440, 97 Pac. 1124;
Board of Sup'rs vs. *Thompson*, 122 Fed. 860–862.
Herring vs. *Modesto Irr. Dist.*, 95 Fed. 709.

Change of Name from "Irrigation" to "Water Conservation" District

SEC. 109a. The name of any district hereafter organized hereunder shall contain either the words "irrigation district" or "water conservation district." Any district heretofore or hereafter organized and existing, the name of which shall include the words "irrigation district" may change its said name by substituting for the word "irrigation," "water conservation" by filing with the board or supervisors with which was filed the original petition for the organization of the district, a certified copy of a resolution of its board of directors adopted by the unanimous vote of all the members of said board at a regular meeting thereof providing for such change of name; and there-

after all proceedings of such district shall be had under such changed name, but all existing obligations and contracts of the district entered into under its former name shall remain outstanding without change and with the validity thereof unimpaired and unaffected by such change of name. (Added, Stats. 1921, p. 1110.)

See p. 149, *"Change of District Name."*

Effect on Prior Acts

SEC. 110. Nothing in this act shall be construed as repealing or in any wise modifying the provisions of any other act relating to the subject of irrigation or water commissioners, except such as may be contained in the act, an act entitled "an act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, and the subsequent acts supplementary thereto, and amendatory thereof, all of which acts, so far as they may be inconsistent herewith, are hereby repealed.

Board of Sup'rs vs. *Thompson*, 122 Fed. 860.

Effective Date

SEC. 111. This act shall take effect from and after its passage and approval.

Short Title

SEC. 112. This act may be referred to in any action, proceeding or legislative enactment as "the California irrigation district act." (Amended, Stats. 1919, p. 669.)

Constitutionality:

Act is constitutional.

Turlock Irr. Dist. vs. *Williams*, 76 Cal. 360, 18 Pac. 379;
Board of Directors vs. *Tregea*, 88 Cal. 334, 26 Pac. 237;
In re Madera Irr. Dist., 92 Cal. 296, 28 Pac. 272, 675;
In re Central Irr. Dist., 117 Cal. 382, 49 Pac. 354;
In re Bonds of So. San Joaquin Irr. Dist., 161 Cal. 345, 119 Pac. 198;
Fallbrook Irr. Dist. vs. *Bradley*, 164 U. S. 112, 41 L. Ed. 369.

Public corporation:

Irrigation district is public corporation or *quasi* corporation.

Turlock Irr. Dist. vs. *Williams*, *supra*;
Central Irr. Dist. vs. *DeLappe*, 79 Cal. 351, 21 Pac. 825;
Crall vs. *Poso Irr. Dist.*, 87 Cal. 140, 26 Pac. 797;
In re Madera Irr. Dist., *supra*;
People vs. *Selma Irr. Dist.*, 98 Cal. 206, 32 Pac. 1047;
People vs. *Turnbull*, 93 Cal. 630, 29 Pac. 224;
Tulare Irr. Dist. vs. *Collins*, 154 Cal. 440, 97 Pac. 1124;
Bettencourt vs. *Ind. Acc. Com.*, 175 Cal. 559, 166 Pac. 323;
Turlock Irr. Dist. vs. *White*, 186 Cal. 183, 198 Pac. 1060;
People vs. *Cardiff Irr. Dist.* 51 Cal. App. 304, 197 Pac. 389;
Lindsay-Strathmore Irr. Dist. vs. *Superior Court*, 182 Cal. 315, 187 Pac. 1056.

Validity of organization:

May not be questioned by private party.

Miller vs. *Perris Irr. Dist.*, 85 Fed. 693.

Can not be attacked collaterally.

Quint vs. *Hoffman*, 103 Cal. 506, 37 Pac. 777;
Knowles vs. *New Sweden Irr. Dist.* (Idaho), 101 Pac. 81;
Quinton vs. *Equitable Inv. Co.*, 196 Fed. 311;
Tulare Irr. Dist. vs. *Shepard*, 185 U. S. 1.

Actions by Bondholders

SEC. 113. Before an action or proceeding by the holders of bonds of an irrigation district to compel, enforce, prohibit or restrain the doing of an act by the district or the board of directors thereof may be instituted or maintained, the holders of ten per cent or more of the duly issued outstanding and unpaid bonds of the district must join in the action or proceeding as plaintiffs, petitioners or applicants for the relief sought. (Added, Stats. 1933, p. 800.)

LAWS RELATED TO CALIFORNIA IRRIGATION DISTRICT ACT

2. CHANGE OF DISTRICT NAME

An act to provide for the change of name of irrigation districts.

(Approved April 6, 1929; Stats. 1929, p. 136.)

SECTION 1. Whenever any irrigation district in this State has been organized under the California irrigation district act under the same name as that of another irrigation district theretofore organized in this State, the board of directors of the last organized irrigation district shall, by a resolution duly adopted by said board, change the name of said irrigation district. Said resolution shall be spread in full upon the minutes of said board and a certified copy of the same shall be recorded in the office of the county recorder in each of the counties in which any portion of the land in such irrigation district is located, and a copy sent to the State Engineer and a copy to the California Bond Certification Commission.

3. IMPROVEMENT DISTRICTS WITHIN IRRIGATION DISTRICTS

An act to provide for the organization and creation of improvement districts within irrigation districts organized under the "California irrigation district act"; to provide for the acquisition, construction, operation, maintenance and repair of improvements therein, and for the levy of assessments on the lands of such improvement districts.

(Approved May 25, 1927, Stats. 1927, p. 1415; amended Stats. 1929, p. 343; 1931, p. 697.)

Petition to Organize District

SECTION 1. Two-thirds in number of the holders of title, or evidence of title to any tract or contiguous tracts of land situate within any irrigation district organized and existing under the California irrigation district act and susceptible of irrigation or being served by a domestic water supply, by a system of laterals, ditches, and pipes, or requiring a system of pumps for the irrigation thereof, or drains or drainage works for the drainage thereof, or requiring the acquisition of existing laterals, ditches, pipes, pumps or other works incidental to a water distribution system, separate and apart from or supplementary to the works of said irrigation district, or desiring a change therein or improvement thereof, or desiring maintenance of existing irrigation ditches and structures therein, or control of weeds in or along such ditches, may petition the board of directors of such irrigation district to organize and create an improvement district, for the purpose of providing such means of irrigation, furnishing of a domestic supply of

water, or drainage, or for the acquisition of existing laterals, ditches, pipes, pumps or other works incidental to a water distribution system for the lands described in said petition, or the said change and improvement thereof, or for maintenance of existing irrigation ditches and structures therein, or control of weeds, and for the levy of an assessment or assessments for the payment of the costs thereof. (Amended, Stats. 1931, p. 697.)

Talbot vs. *Turlock Irr. Dist.*, 85 Cal. Dec. 278.

Constitutionality.

Moore vs. *Thornburg*, 208 Cal. 657, 284 Pac. 218.

Similar districts in other States.

Comm'rs vs. *Shaw* (Ill.), 96 N. E. 984;
Comm'rs vs. *Boyd, etc., Dr. Dist.* (Ill.), 113 N. E. 85;
Kohl vs. *Choteau, etc., Dist.* (Ill.), 118 N. E. 999;
Gottschall vs. *Zipple* (*Ill.*) 140 N. E. 13.

Contents of Petition

SEC. 2. Said petition shall contain a statement of the plans of the proposed improvement or of the existing improvement, if any, proposed to be acquired, a description of the boundaries of such proposed improvement district, the names of the owners of all lands within such improvement district with their last known addresses and a description of the land owned thereby which petition shall be signed by the requisite number of landowners. A certificate of acknowledgment or proof of signature taken before a notary public or justice of the peace of any state or any acknowledgment taken according to the laws of the State of California, or an affidavit by any person in the presence of whom such petition was signed shall be sufficient evidence of the genuineness of such signature. The petition may consist of any number of separate instruments. Such petition and all proceedings in reference thereto, and the lands affected thereby, and said improvement district shall be designated by number, and the description of the parcels of land shall be according to the last duly equalized assessment book of the irrigation district, and said assessment roll shall be conclusive evidence as to the holders of title or evidence of title to said lands. Guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. (Amended, Stats. 1931, p. 698.)

Survey; Preparation of Plans, Specifications and Proposed Assessment

SEC. 3. Upon receipt of such petition the board of directors of said district shall cause a survey to be made of the proposed improvement, or of the improvement proposed to be acquired and if, upon such survey, it is found that the construction of the improvement or the acquisition of the existing laterals, ditches, pipes, pumps or other works is feasible, the board shall cause to be prepared an estimate of the cost thereof, and if the proposal be for construction of an improvement, the board shall also cause to be prepared plans and specifications of the improvements. In either case, the board shall cause to be prepared a statement and assessment of the amount of such costs apportioned to each tract of land in said improvement district, as said tracts of land are shown upon the last equalized assessment book of the district,

according to the benefits that will accrue to each of said tracts of land in said improvement district respectively, by reason of the expenditures of said sums of money for said improvements or acquisition. Said board of directors of said irrigation district are hereby designated and constituted a board of assessment commissioners to levy and apportion said assessment. Said petition, plans, specifications and proposed assessment shall be filed in the office of said district and shall be subject to the inspection of all parties interested. (Amended, Stats. 1929, p. 344.)

Notice of Hearing Upon Petition and Proposed Special Assessment

SEC. 4. After filing of such plans and specifications, if any, and of said estimate, statement and assessment, said board shall give notice of a hearing upon said petition and whether a special assessment shall be levied upon the lands within said improvement district for the purpose of raising money to pay for such improvements, as set forth in such petition, plans, specifications, statement and assessment, notice of which hearing shall be given by posting a notice thereof in three public places within said proposed improvement district, the publication of such notice once a week for two weeks in some newspaper published in the county in which the office of said irrigation district is situated, and mailing a copy thereof to the last known address of all of the owners of said lands in said improvement district, as such address appears in said petition. Such notice shall be posted and mailed not less than twenty days prior to the date set for said hearing. (Amended, Stats. 1929, p. 344.)

Hearing; Modification of Petition; Change of Boundaries

SEC. 5. At said hearing said board shall hear such objections to the said petition and to the formation of said improvement district and its boundaries, and to the said plans, specifications and estimates, and to said proposed assessment and the apportionment thereof as may come before them and at such hearing shall make such changes in reference thereto as they may consider proper. The board may exclude any part or portion of the lands described in said petition from said improvement district, and may include additional lands; provided, however, that if any additional lands are included therein, the hearing of said petition shall be continued and the owners of said added lands be given not less than twenty days personal notice of the addition of such lands to said improvement district. If more than one-third in number of the holders of title or evidence of title of lands within said improvement district shall object, at said hearing, to the formation of said improvement district and the levy of said proposed assessment, said board of directors shall deny said petition and no further proceeding shall be had thereon.

Order Creating District and Levying Special Assessment

SEC. 6. If at said hearing said board of directors shall determine and find that it would not be to the best interests of said irrigation district and improvement district to proceed with such improvement, or to acquire such improvements or to organize said improvement dis-

trict for any of the purposes set forth in this act, then said board shall order said proceedings dismissed without prejudice to the renewal thereof. If, however, said board shall determine and find that it would be to the best interests of said irrigation district and said improvement district to proceed with such improvement, or the acquisition of such improvements or be organized for any of the purposes set forth in this act, they shall make a final order to be entered in the minutes of said board, approving said petition, creating said improvement district, levying said assessment, if such assessment is necessary for said purposes, and apportioning the same to the said lands according to benefits, which said assessment shall include a sum that shall equal interest on any deferred payments at a rate of not to exceed seven per cent per annum, and ten per cent additional for anticipated delinquencies. Said order shall contain a description of the boundaries of said improvement district, and the secretary of the board shall cause a certified copy thereof to be recorded in the office of the county recorder in each county in which any of said lands of said improvement district are located. Said assessment may be made payable in not to exceed ten annual installments and the board of directors of said irrigation district shall, at the time of the levy of the annual assessment of said district, add to the amount of the annual assessment levied upon said lands within said improvement district, such amount for which they may be liable by reason of the levying of said improvement district assessment, and if said annual irrigation district assessment is made payable in two installments then said improvement district assessment or the installment thereof shall likewise be made payable in two installments. Said improvement district assessment, and each installment thereof, shall be and remain a lien on said lands in the same manner as and be a part of the annual assessment of said irrigation district. At any time before the warrants provided for in section 7 of this act have been issued, the amount of any such assessment, exclusive of interest and the ten per cent added for anticipated delinquencies, may be paid in cash and such land shall thereafter not be subject to the annual assessments levied thereon for the purposes of the said improvement or acquisition; provided, however, that such lands shall be and remain liable for any assessments levied thereon for maintenance and operation and for any supplementary or additional assessments levied thereon under the provisions of this act. (Amended, Stats. 1931, p. 698.)

Issuance of Warrants for Amount of Assessment

SEC. 7. Said irrigation district shall have power to issue warrants signed by the president and secretary of the board of directors of said irrigation district, in face amount not exceeding in the aggregate the cost of said improvement and/or acquisition, exclusive of interest and the ten per cent added for anticipated delinquencies, which warrants shall be made payable in amounts and at the times corresponding substantially to the amounts and times of payments of the installments of said improvement district assessment, and shall bear interest at such rate of interest as may have been fixed on the levy of said improvement district assessment. Coupons for the interest on said warrants may be attached thereto which may be made payable semiannually. Said warrants may be made payable to bearer or to persons furnishing work,

labor or material, or if said work of improvement is done under contract as hereinafter provided, then to such contractor. Said warrants may be sold by the board of directors of the irrigation district for not less than par at either public or private sale. Said warrants shall be payable only out of funds derived from the levy and collection of said improvement district assessment on said lands, and shall be used solely for the acquisition or construction of the improvement for the acquisition or construction of which the improvement district shall have been organized, and the necessary incidental expenses. The board of directors of said irrigation district may, in their discretion, invest in such improvement district warrants any money held by such district in sinking or depreciation funds. Any landowner of the improvement district who shall desire at any time to lessen or remove the lien upon his land of any improvement district assessment on which warrants have been or hereafter may be issued, may deliver to the district treasurer for cancellation warrants payable out of said assessment, and the treasurer shall credit against the assessment on his land the principal and interest of said warrants; provided, however, that the board of directors of said district may require that such warrants so delivered and canceled shall be substantially of the average maturities of such issue of warrants. (Amended, Stats. 1931, p. 699.)

Performance of Improvements

SEC. 8. The said work of improvement provided for in this act and the purchase of all necessary supplies, material and equipment therefor shall be performed and done by said irrigation district or in the discretion of the board of directors bids may be received for said work and material after such notice calling for bids as the board of directors may prescribe; provided, however, that the cost thereof shall be paid only out of assessments levied upon and collected from the said lands in said improvement district. (Amended, Stats. 1931, p. 700.)

Additional and Supplemental Assessments; Inclusion of Lands; Dissolution

SEC. 9. If said improvement district desires to do additional work or acquire additional property at any time upon the petition of two-thirds in numbers of the holders of title or evidence of title to said lands in said improvement district, an additional assessment, or assessments, may be levied substantially in the same manner as on the original assessment. If at any time it is desired that additional lands be included in said improvement district, a petition for such inclusion signed by the owners of such lands to be included and by two-thirds in number of the holders of title or evidence of title of lands in said improvement district, may be filed with the board of directors of said irrigation district, and the same proceedings had as upon the original petition for the organization of said improvement district. Said petition shall describe the boundaries of said improvement district as enlarged by such inclusions, and give the names and addresses of the owners of said lands in substantially the same manner as in said original petition. Should the assessments levied upon said lands in such improvement district be insufficient to pay in full the cost of such improvements or to pay the warrants issued for said improvements, an

additional and supplemental assessment shall be made and levied upon all of said lands sufficient to pay said cost of said warrants in full, and the procedure followed in making such additional and supplemental levy of assessment shall be substantially the same as the levy of the original assessment, but without the necessity of a petition. If the proceeds from said assessment so levied shall exceed the final amount necessary for such purposes, said lands so paying said assessment shall be entitled to a credit in said excess amount upon the succeeding district annual assessment or assessments levied upon such land.

An any time prior to the incurring of any indebtedness or upon the full payment of all indebtedness of such improvement district, a petition signed and acknowledged by not less than the number of the holders of title, or evidence of title to the tracts of land constituting such improvement district required to organize such improvement district, may be filed with the board of directors of such irrigation district requesting that such improvement district be dissolved. A hearing shall be had in the same manner and after the same notice as is required for the organization of such improvement district, and the board of directors may, after such hearing, order such improvement district dissolved, which order shall be recorded in the same manner as the order organizing such improvement district.

Upon a change or resubdivision upon the assessment book of the irrigation district of any parcel of land within such improvement district, the board of directors, upon a petition of the owner or owners of such parcel of land so changed or resubdivided, may reapportion the improvement district assessment upon such parcel of land, and the order of such reapportionment shall be recorded in the same manner as the order levying the original assessment. (Amended, Stats. 1931, p. 700.)

Powers of Board of Directors and Officers

SEC. 10. Said board of directors and all other officers of said irrigation district shall have all the rights, powers and privileges concerning said improvement district, and lands thereof and the proceedings herein provided for, as such board may have concerning the irrigation district, of which it is a part, and including the right of said district, to condemn lands and to acquire, own and hold property within said improvement district. Said board of directors may also hold property either real or personal, used or acquired in said improvement in the name of said directors, and their successors in office, as trustees for such improvement district.

Said board of directors may allow, on such terms as may be agreed upon, any corporation, association, firm, or individual, to carry water through any canal, ditch, or conduit, for the improvement or acquisition of which the improvement district was organized, and may cancel the right for such use in the event that payments therefor are not made in accordance with the terms agreed upon. (Amended, Stats. 1931, p. 701.)

Annual Assessment for Operation and Maintenance

SEC. 11. The board of directors of said irrigation district may include in the annual assessment, provided for by section 39 of the

California irrigation district act, levied upon the lands in said improvement district, such additional amount as they may consider necessary for the operation, maintenance and repair of the canals and works of such improvement district for the ensuing year, and such funds when collected shall be deposited and kept in a separate fund for the benefit of such improvement district to be used for said purposes and shall be disbursed only upon warrants drawn upon said fund authorized and issued in the same manner as other warrants of such irrigation district. (Added, Stats. 1929, p. 347.)

Water Tolls in Lieu of Assessments

SEC. 12. The board of directors of said irrigation district may, in lieu (either in whole or in part) of levying assessments for the operation, maintenance and repair of the canals and works of such improvement district, fix and collect rates of tolls or charges for the use of water or any other public use within the improvement district under the same conditions provided for similar tolls and charges in irrigation districts by sections 18, 39f and 55 of the California irrigation district act and such tolls and charges when collected shall be deposited and kept in a separate fund for the benefit of such improvement district to be used for said purposes and shall be disbursed only upon warrants drawn upon said fund authorized and issued in the same manner as other warrants of said irrigation district. (Added, Stats. 1929, p. 348.)

Short Title

SEC. 13. This act shall be known and may be referred to in any action, proceeding, or legislative enactment, as the "Irrigation district improvement act." (Added, Stats. 1929, p. 348.)

Saving Clause

SEC. 14. If any section, subdivision, clause, or phrase of this act be for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act, and the Legislature hereby declares that it would have passed this act and each and every other section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, or phrases of this act be declared unconstitutional. (Added, Stats. 1929, p. 348.)

Decision of Board Final; Limitation of Actions

SEC. 15. All actions, proceedings, conclusions and findings of fact of a board of directors of an irrigation district concerning an improvement district therein and the levying of assessments on the lands thereof shall be conclusive and final, and no action shall be brought or maintained concerning or attacking the same, unless such action is instituted within six months after such actions, proceedings, conclusions or findings were had and made or said assessments levied. (Added, Stats. 1931, p. 702.)

Action to Determine Validity of Assessments and Warrants

SEC. 16. The board of directors of the irrigation district in which said improvement district is located may, at any time after the levy of any assessment or the issuance of any warrants herein provided for, bring an action to determine the validity of such assessment or the issuance of such warrants in the same manner and with the same effect as provided for in sections 68 and 71 of the California irrigation district act for the determination of the validity of irrigation district bonds and assessments. (Added, Stats. 1931, p. 702.)

Defects Not Affecting Substantial Rights to Be Disregarded

SEC. 17. No irregularity, error, informality or omission not affecting the substantial rights of the landowners within an improvement district shall affect the validity of any act done or proceeding taken under the provisions of this act. (Added, Stats. 1931, p. 702.)

4. IMPROVEMENT DISTRICT VALIDATING ACTS

ACT OF 1933

An act to radidate all proceedings for the formation of improvement districts within irrigation districts and all assessments heretofore made in any such improvement districts, to validate all warrants heretofore issued or to be issued, payable from the assessments levied in such improvement districts, and authorizing and directing the collection of the assessments in such improvement districts sufficient to pay the principal and interest of said warrants, validating and confirming all acts and proceedings of the board of directors of any irrigation district in connection with the acquisition and creation of improvement districts within irrigation districts, and the acquisition, construction, operation, maintenance and repair of improvements therein.

(Approved April 13, 1933, Stats. 1933, p. 513.)

All Acts, Proceedings and Warrants Validated

SECTION 1. When in any irrigation district organized and existing under the laws of the State of California proceedings have been taken for the purpose of organizing any improvement district under the provisions of an act entitled: "An act to provide for the organization and creation of improvement districts within irrigation districts organized under the California Irrigation District Act; to provide for the acquisition, construction, operation, maintenance and repair of improvements therein, and for the levy of assessments on the lands of such improvement districts," approved May 25, 1927, as amended, all acts and proceedings of the board of directors of such irrigation district conducting the proceedings for the formation of such district and all other acts and proceedings leading up to and including the formation of such district, including the petition for such formation in the form and manner in which such petition was heretofore approved by such board of directors, and all other acts and proceedings relative to the levy of any assessment in such district and all warrants hereto-

fore issued, or to be issued pursuant to such acts and proceedings in any such district heretofore organized are hereby legalized, confirmed and validated, and the power of the board of directors of such irrigation district conducting such proceedings in any such improvement district to make and levy and collect said assessment, and to issue warrants payable therefrom, is hereby ratified, confirmed and approved; and said warrants are hereby declared to be and shall be in the form and manner in which the same have heretofore been issued, or are to be issued, if not now outstanding, the legal and valid obligations of and against such improvement district, payable from the proceeds of the assessment levied or to be levied therein; and all other acts and proceedings heretofore taken under the provisions of said Irrigation District Improvement Act, or purporting to be taken under said act, are hereby legalized, confirmed and validated. No error or informality in any such proceedings heretofore taken under said Irrigation District Improvement Act shall in any wise invalidate the formation of any such improvement district, the levy of any assessment therein or the issuance of any warrants payable from such assessment or any other act or proceeding relative thereto, from and after the effective date of this act, all such proceedings and acts being hereby ratified, confirmed, approved and validated.

Powers and Duties of Directors and Officers

SEC. 2. For the purpose of paying the interest on any warrants issued by any irrigation district under the provisions of said Irrigation District Improvement Act as the same becomes due, and the principal thereof, the assessors, treasurers, collectors, boards of directors and other officers of the respective irrigation districts organized under the laws of this State in which such improvement district shall have been organized or attempted to have been organized under said Irrigation District Improvement Act, shall have the same powers and perform the same duties as are provided by said act for the assessment, levy and collection of the special assessments and the payment of the principal and interest of the warrants provided to be made and issued under the provisions of said act, and it shall be and hereby is made the duty of the board of directors of any irrigation district in which such improvement district shall have heretofore been organized or attempted to have been organized to levy and collect the special assessment heretofore made or to be made in such improvement district clearly sufficient to pay the principal and interest of the warrants issued or to be issued on account of such proceedings, and said boards of directors are hereby vested with power and jurisdiction to do all and singular the things herein and in said Irrigation District Improvement Act required to be done for the purpose of providing funds sufficient to pay the principal and interest of said warrants.

ACT OF 1931

An act to validate all proceedings for the formation of improvement districts within irrigation districts and all assessments heretofore made in any such improvement districts, to validate all warrants heretofore issued or to be issued, payable from the assessments levied in such improvement districts, and authoriz-

ing and directing the collection of the assessments in such improvement districts sufficient to pay the principal and interest of said warrants, validating and confirming all acts and proceedings of the board of directors of any irrigation district in connection with the acquisition and creation of improvement districts within irrigation districts, and the acquisition, construction, operation, maintenance and repair of improvements therein, and declaring this act to be an urgency measure.

(Approved January 29, 1931; Stats. 1931, p. 46.)

All Acts, Proceedings and Warrants Validated

SECTION 1. When in any irrigation district organized and existing under the laws of the State of California proceedings have been taken for the purpose of organizing any improvement district under the provisions of an act entitled: "An act to provide for the organization and creation of improvement districts within irrigation districts organized under the California irrigation district act; to provide for the acquisition, construction, operation, maintenance and repair of improvements therein, and for the levy of assessments on the lands of such improvement districts," approved May 25, 1927, as amended, all acts and proceedings of the board of directors of such irrigation district conducting the proceedings for the formation of such district and all other acts and proceedings leading up to and including the formation of such district, including the petition for such formation in the form and manner in which such petition was heretofore approved by such board of directors, and all other acts and proceedings relative to the levy of any assessment in such district and all warrants heretofore issued, or to be issued pursuant to such acts and proceedings in any such district heretofore organized are hereby legalized, confirmed and validated, and the power of the board of directors of such irrigation district conducting such proceedings in any such improvement district to make and levy and collect said assessment, and to issue warrants payable therefrom, is hereby ratified, confirmed and approved; and said warrants are hereby declared to be and shall be in the form and manner in which the same have heretofore been issued, or are to be issued, if not now outstanding, the legal and valid obligations of and against such improvement district, payable from the proceeds of the assessment levied or to be levied therein; and all other acts and proceedings heretofore taken under the provisions of said irrigation district improvement act, or purporting to be taken under said act, are hereby legalized, confirmed and validated. No error or informality in any such proceedings heretofore taken under said irrigation district improvement act shall in anywise invalidate the formation of any such improvement district, the levy of any assessment therein or the issuance of any warrants payable from such assessment or any other act or proceeding relative thereto, from and after the effective date of this act, all such proceedings and acts being hereby ratified, confirmed, approved and validated.

Powers and Duties of Directors and Officers

SEC. 2. For the purpose of paying the interest on any warrants issued by any irrigation district under the provisions of said irrigation district improvement act as the same becomes due, and the principal thereof, the assessors, treasurers, collectors, boards of directors and other officers of the respective irrigation districts organized under the laws of this State in which such improvement district shall have been organized or attempted to have been organized under said irrigation district improvement act, shall have the same powers and perform the same duties as are provided by said act for the assessment, levy and collection of the special assessments and the payment of the principal and interest of the warrants provided to be made and issued under the provisions of said act, and it shall be and hereby is made the duty of the board of directors of any irrigation district in which such improvement district shall have heretofore been organized or attempted to have been organized to levy and collect the special assessment heretofore made or to be made in such improvement district clearly sufficient to pay the principal and interest of the warrants issued or to be issued on account of such proceedings, and said boards of directors are hereby vested with power and jurisdiction to do all and singular the things herein and in said irrigation district improvement act required to be done for the purpose of providing funds sufficient to pay the principal and interest of said warrants.[1]

5. CONSOLIDATION OF DISTRICTS

An act to provide for the consolidation of districts organized or existing under the California irrigation district act.

(Approved May 31, 1921, Stats. 1921, p. 1018; amended Stats. 1925, p. 802.)

---

[1] Sec. 3 of the act reads as follows:

"SEC. 3. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety within the meaning of section 1 of article four of the constitution of the State of California, and shall become effective immediately. The following is a statement of facts constituting such urgency:

Many improvement districts within irrigation districts in the State of California are without funds with which to provide for the acquisition, construction, operation, maintenance and repair of improvements therein for the irrigation and drainage of lands therein. In many such improvement districts there are large acreages of land upon which many people make their homes and which with irrigation will provide large quantities of agricultural products but without irrigation are arid and unproductive. The acquisition, construction, operation, maintenance and repair of improvements provided for in said irrigation district improvement act are needed immediately for the irrigation season of 1931 and, unless the same are provided for immediately, water for irrigation purposes can not be furnished to said lands during the irrigation season of 1931 and such lands will be without water and therefore be rendered unproductive and valueless, necessitating the abandonment of homes. In many such districts, unless the contemplated improvements for the drainage of lands therein are consummated before the irrigation season of 1931, many thousands of acres of land will become alkalied, water-logged and swamped and rendered permanently unfit for agricultural purposes because of the rising and high underground water-table therein, as well as rendered dangerous to the public health by reason of the marshy and swamped lands created, which will be a breeding place for mosquitos and malarious insects. Many such improvement districts have been created within irrigation districts for the purpose of rectifying the above conditions which now exist, but, by reason of minor defects in the proceedings for the formation of such districts and other minor irregularities not substantially affecting the rights of property owners within such districts, such districts are unable to proceed with the improvements and are unable to issue or negotiate warrants for the payment thereof, and it is essential that such improvements be made immediately without awaiting the delay of ninety days after the adjournment of this Legislature."

Consolidation

SECTION 1. Two or more districts organized or existing under the California irrigation district act may be consolidated as in this act provided and when so consolidated, the consolidated district shall possess all of the powers and be governed by and subject to all of the provisions of the California irrigation district act, except as in this act otherwise provided, as though originally organized under said act.

Petition and Resolution

SEC. 2. When in the judgment of the board of directors of an irrigation district it is for the best interest of such district that it be consolidated with one or more other districts organized or existing under said California irrigation district act or when there is presented to said board a petition signed by signers equal in numbers to and possessing the qualifications required by said California irrigation district act for a petition for the organization of a district, said board must pass a resolution reciting such facts and declaring the advisability of such consolidation and its willingness to consolidate and forward a copy thereof to the State Engineer.

Investigation by State Engineer

SEC. 3. Upon the receipt of the certified copy of such resolution adopted by two or more of such districts the State Engineer shall forthwith make or cause to be made such investigation as he may deem necessary.

Report by State Engineer

SEC. 4. Upon the completion of such examination but not more than ninety days after the receipt by him of a copy of the resolution from the board last adopting the same, the State Engineer shall submit to the board of directors of each of said districts his report thereon.

In case said State Engineer shall consider the elimination of a portion of the lands included in any of the original districts advisable, he shall recommend the same in his said report, stating his reasons therefor. He shall also set out the boundaries of the consolidated district recommended and the divisions into which it is to be divided, the same being five in number.

If any of said lands so eliminated have never received water from the original district in which it was included, the owners thereof shall be entitled to the return of all assessments theretofore paid upon same. If any of said lands have theretofore received water, the said State Engineer shall recommend in his said report the portion, if any, of said assessments to the return of which the respective owners are equitably entitled. (Amended, Stats. 1925, p. 802.)

Election

SEC. 5. Within ten days after receiving said report, if the State Engineer deems such consolidation desirable, the board of directors of each of said districts must make an order calling a special election at which shall be submitted to the electors of such district possessing the

qualifications prescribed by the California irrigation district act the question whether or not said consolidation shall be effected, which said election shall be conducted and the returns canvassed so far as practicable in accordance with the requirements for the general irrigation district election provided for in said act. Notice of such election shall be given for the time and in the manner provided for notice of special elections for the issuance of bonds in said California irrigation district act. The ballots shall contain the words "Consolidation—Yes" and "Consolidation—No," or words equivalent thereto, and if a majority of the votes cast in each district are "Consolidation—Yes," then such districts shall be consolidated.

At such election there shall also be elected the directors and other officers of the consolidated district who shall be nominated and voted for as provided for in the general election of an irrigation district. (Added, Stats. 1925, p. 803.)

Action by Board Upon Unfavorable Report

SEC. 6. After receiving said report, if the said engineer deems such consolidation not desirable, or if no report is received from said engineer within ninety (90) days after the submission to him of said copy of said resolution from the board last adopting the same, said boards of directors, if they each shall determine and declare by resolution that the proposed consolidation is desirable, shall each make an order calling a special election in the same manner as provided in section 5 hereof, which said election shall be conducted in the same manner and upon the same notice as provided therein.

Offices

SEC. 7. In the original resolution of consolidation the boards of directors of the several districts shall specify the offices agreed upon for the consolidated district and upon the voters of said districts consolidating said districts as herein provided, the directors and other officers then elected shall thereupon become the officers of such consolidated district and shall qualify and organize in the manner provided for a newly organized district.

Apportionment of Indebtedness

SEC. 8. The report of the said engineer shall recommend the apportionment to the lands of the respective districts any outstanding indebtedness as he deems equitable, and the board of directors of the consolidated district, if such consolidation be made, shall within sixty (60) days after such consolidation act upon such recommendation and shall apportion to the lands of the said consolidated district any outstanding indebtedness as it deems equitable.

Name and Powers of District

SEC. 9. In the original resolution of consolidation the said boards of directors of the several districts shall specify the name agreed upon for the said consolidated district, and if such consolidation is adopted at such election, then said consolidation shall be effective and such con-

solidated district, under the said name, shall succeed to all of the rights, privileges and properties of all of the districts participating in such consolidation and shall be subject to all of the indebtedness, bonded and otherwise, thereof, as so respectively apportioned, and all future assessments necessary shall be levied in accordance with such apportionment.

Within ten days after said consolidation is made, the board of directors of said consolidated district shall make an order declaring such consolidation effective and setting out the date that same became effective and the boundaries of said consolidated district. A copy of said order, duly certified by the president and secretary thereof, shall be forthwith filed for record in the office of the county recorder of each county in which any lands of said district are situate.

Sale of Bonds

SEC. 10. Any bonds of any irrigation district, or districts, participating in such consolidation pursuant to the provisions of this act, which have been authorized by the electors of such district, or districts, prior to such consolidation, but which have not been issued, may, by order of the board of directors of the consolidated district, be sold or disposed of in the manner provided in sections 32 and 32a, respectively, of the California irrigation district act, and the proceeds thereof applied to the purpose for which such bonds were authorized. (Added, Stats. 1925, p. 803.)

6. DISTRICTS OVER 500,000 ACRES

An act to provide for the government of irrigation districts having an area of more than five hundred thousand acres and for elections and the qualification of electors therein and to enable such irrigation districts to construct levees and to protect the lands within such districts from damage resulting from floods and the overflow of rivers and for that purpose to provide additional powers for boards of directors within such irrigation districts.

(Approved January 23, 1915; Stats. 1915, p. 1; amended Stats. 1933, p. 2028.)

Canal System; Flood Control

SECTION 1. The board of directors of irrigation districts having an area of more than 500,000 acres may expend such sums as may to them seem necessary for the protection of the canal system of such district or of lands within such districts from damage by flood and from the overflow of rivers and may contribute funds for that purpose to be expended by or jointly with the government of the United States of America, or other governments or persons benefited by the same protective work or works. The board of directors of any such irrigation district may also do all things necessary to insure such irrigation system and the lands within such district from any such damage by flood or overflow without first receiving a petition of land owners or freeholders for holding an election to authorize such expenditure.

Issuance of Bonds

SEC. 2. When the issuance of bonds of any such district has been authorized by vote of the electors of such district, for the purpose of protection against floods but have not been sold, the board of directors thereof may borrow for such purpose, at the rate of interest not exceeding seven per cent per annum, the amount of such authorized bond issue, but when such bonds have been sold, the amount borrowed under the provisions of this section must be repaid.

Limitation on Additional Loans

SEC. 3. In addition to the powers conferred by the last section, the board of directors of any such district shall have power to borrow for flood protection purposes, in any one year not to exceed two hundred thousand dollars at a rate of interest not greater than seven per cent per annum.

Assessments

SEC. 4. The board of directors of any such irrigation district shall within fifteen days after the close of its session as a board of equalization, levy an assessment sufficient to raise the annual interest on any outstanding bonds of such district and for any year in which any bonds shall fall due, must increase such assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature, also, sufficient to pay in full all sums due or that shall become due from the district before the time for levying the next annual assessment, also, sufficient to pay in full, the amount of any other contract or obligation of the district due or to become due within the succeeding twelve months and such further sum as, with the other revenue of the district, will meet the estimated current expenses of the district including cost of flood prevention for the succeeding twelve months.

Property Qualifications

SEC. 4a. In such districts, no person shall be entitled to vote at any election unless such person possesses all of the qualifications required of electors within the county election precincts in such districts under the general election laws of the State, and shall have appeared on the last preceding equalized assessment roll of the district as the holder of title or evidence of title to real property situate within the district in which the election is being held. Any holder of land under a possessory right acquired by entry or purchase from the United States or the State of California, or by a contract of purchase shall be deemed to be a holder of evidence of title to said land within the meaning of this act. (Added, Stats. 1933, p. 2028.)

Roster of Voters

SEC. 4b. Prior to any election in any such district, the secretary of the district shall prepare a roster of all persons possessing the qualifications prescribed in the preceding section for each precinct or consolidated precinct within such district by reference to the last preced-

ing equalized assessment roll of the district and the registers of voters in the county or counties in which such district may be situate, and prior to the election he shall certify to each of the election boards in the district the roster of persons qualified to vote in their respective precincts or consolidated precincts. Only persons whose names appear on such rosters shall be entitled to vote at the election for which such rosters were prepared. (Added, Stats. 1933, p. 2028.)

California Irrigation District Act

SEC. 5. Except as herein provided, every such irrigation district shall be governed by the provisions of an act of the Legislature of the State of California, entitled, "An act to provide for the organization and government of irrigation districts and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, and the acts amendatory thereof.

Urgency

SEC. 6. This act is hereby declared to be an urgency measure, within the meaning of section 1, Article IV of the Constitution of the State of California, and shall take effect immediately.

The facts constituting such urgency are as follows: One irrigation district which will be affected and governed by the provisions of this act, and which contains a population of over thirty thousand people, is in serious danger of loss of life, and of a vast amount of property, by reason of threatened overflow of the Colorado River. There is no other public body authorized to make the expenditures necessary to secure protection from such threatened overflow and the protective work necessary in order to be effective, must be commenced before this act would take effect without the enactment of this section. It is therefore necessary for the immediate preservation of public safety, that this act take effect immediately.

7. GENERAL VALIDATING ACTS[1]

ACT OF 1933

An act confirming and validating the formation, organization and existence of irrigation districts.

(Approved March 27, 1933; Stats. 1933, p. 328.)

All Proceedings, Including Inclusion and Exclusion, Validated

SECTION 1. In case the board of supervisors of any county in this State has heretofore declared any territory to be organized as an irrigation district under the California Irrigation District Act and has designated a name for such district and has declared certain persons elected as the officers thereof, and the persons declared elected as directors thereof have organized as a board and said board has acted as the board of directors of such district for at least one year before

[1] Chapter 39, Statutes of 1915, validates the formation of county irrigation districts organized under Chapter 370, Statutes of 1913.

this act takes effect, all acts and proceedings of such board of supervisors and of all public officers in or in connection with the organization of such district are hereby validated, confirmed and declared sufficient and such district is hereby recognized and established as an irrigation district with the name designated by said board of supervisors and with the boundaries established by said board of supervisors or with such modifications of said boundaries as may have been made by order of the board of directors of such district on petition or petitions for the inclusion of land therein or the exclusion of land therefrom.

ACT OF 1931

An act establishing and validating the organization and existence of irrigation districts.

(Approved April 21, 1931, Stats. 1931, p. 248.)

All Proceedings, Including Inclusion and Exclusion, Validated

SECTION 1. In case the board of supervisors of any county in this State has heretofore declared any territory to be organized as an irrigation district under the California Irrigation District Act and has designated a name for such district and has declared certain persons elected as the officers thereof, and the persons declared elected as directors thereof have organized as a board and said board has acted as the board of directors of such district for at least one year before this act takes effect, all acts and proceedings of such board of supervisors and of all public officers in or in connection with the organization of such district are hereby validated, confirmed and declared sufficient and such district is hereby recognized and established as an irrigation district with the name designated by said board of supervisors and with the boundaries established by said board of supervisors or with such modifications of said boundaries as may have been made by order of the board of directors of such district on petition or petitions for the inclusion of land therein or the exclusion of land therefrom.

ACT OF 1929

An act confirming and validating the formation or organization and existence of irrigation districts.

(Approved April 10, 1929, Stats. 1929, p. 159.)

All Proceedings for Organization of Districts Validated

SECTION 1. In all cases where the board of supervisors of any county in this State has purported to form or organize an irrigation district under any law or laws of this State, and such purported formation or organization has been completed for a period of one year previous to the taking effect of this act, and such irrigation district has acted or functioned as a district for a period of one year previous to the taking effect of this act, all acts and proceedings taken for the purpose of forming or organizing such district are hereby legalized, validated and declared to be sufficient, and such irrigation district is hereby declared to be duly formed and organized under its appropriate name as of the time of its purported formation, with boundaries as

shown or indicated in the order of said board of supervisors, and shall have all the rights and privileges and be subject to all the duties and obligations of a duly formed or organized irrigation district.

8. DISSOLUTION OF DISTRICTS

VOLUNTARY DISSOLUTION

An act to provide for the dissolution of irrigation districts, the ascertainment and discharge of their indebtedness, and the distribution of their property.

(Approved February 10, 1903, Stats. 1903, p. 3; amended 1909, p. 139; 1911, Ex. Sess., p. 118; 1913, p. 39; 1915, p. 859.)

Dissolution of Districts

SECTION 1. Any irrigation district organized under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, and all acts supplementary thereto or amendatory thereof, including an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of lands embraced within such districts, and also, to provide for the distribution of water for irrigation purposes," approved March 31, 1897, may be dissolved in the manner hereinafter provided; provided, that in case a contract authorized by law has been made between the district and the United States for the construction, operation and maintenance of the necessary works for the delivery of water or for a water supply, no such district shall be dissolved and no proceedings entertained by any court or otherwise looking to the dissolution of such district, until the written assent of the secretary of the interior be given to such dissolution. (Amended, Stats. 1915, p. 859.)

Petition for Dissolution

SEC. 2. A majority in number of the holders of title, or evidence of title, to real property in any irrigation district, and a majority in value of said property according to the equalized assessment roll of said district for the year last preceding upon which any assessment has been made, may propose the dissolution of said district by a petition signed by such majority, which petition shall set forth the amount of the outstanding bonds, coupons, and other indebtedness, if such there be, together with a general description of the same, and the holders, so far as known, showing the amount of each description of indebtedness and the ownership, so far as known, of the same. Also the estimated cost of the dissolution of said district. Said petition shall also state the assets of said district, including irrigation system, if any, dams, reservoirs, canals, franchises, water rights, a detailed statement of all the lands sold to the district for assessments, and the amount of the assessments on each parcel of land sold, also all assessments unpaid, and the amount upon each lot or tract of land, and all other assets of

the district; and in case any proposition has been made by the holders of said indebtedness to settle the same, said proposition, together with any plan proposed to carry the same into execution, shall be included in said petition.

Escondido Mut. Water Co. vs. *Escondido*, 169 Cal. 772, 147 Pac. 1172; *Byington* vs. *Sacramento, etc. P. Co.*, 170 Cal. 124, 145 Pac. 791; *Bottoms* vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100.

Special Election in District Without Indebtedness

SEC. 2a. In case an irrigation district has no indebtedness not barred by the statute of limitations and no assets and has ceased to be a going concern and has no irrigation system by which it conveys water for irrigation or domestic purposes to any of the residents of such district, the petition for dissolution mentioned in section 2 of said act shall contain statements showing such facts and also that it is the desire of the signers of such petition to have said district dissolved, and such petition need not contain any other statement or allegation, and such petition need only be signed by two-thirds of the qualified electors residing in such district, and by the holders of title or evidence of title representing at least fifty per cent of the acreage within said district and not less than fifty per cent in value of all lands lying within the exterior boundaries of said district, the value of said lands to be determined by the last equalized assessment roll of said district, and such petition so signed and containing such statements and allegations shall be sufficient.[1] In such case the plan of dissolution referred to in section 3 of said act may be entirely omitted and it shall not be necessary for the petitioners or persons signing such petition, or for the board of directors of such district to propose any plan for the dissolution of such district or any plan for the liquidation of its indebtedness or the distribution of its assets; provided, that the petition shall further recite the fact that an application will be made to the superior court of the State of California in and for the county in which the office of the board of directors of such district is required to be kept, for a decree of dissolution of said district under the provisions of said act. And in the case mentioned in this section, it shall not be necessary to obtain the assent of any holder of any indebtedness or evidence of indebtedness of said district barred by any statute of limitations of this State before the election provided for in said section 3, shall be called. Upon the filing of said petition with the board of directors of said district said board shall call a special election at which shall be submitted to the electors of such district the question whether or not said district shall be dissolved. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of directors is required to be kept, once a week for at least three successive weeks before such election. Such notices must specify the time of holding the election, and the fact that it is proposed to dissolve the district. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with provisions of law governing the election of officers in irrigation districts

[1] The first sentence of Sec. 2a is a repetition of the first sentence of Sec. 2.

At such election the ballot shall contain the words "Dissolution of the district—Yes" or "Dissolution of the district—No," or words equivalent thereto. It shall not be necessary in winding up the affairs of any district organized under the laws of this State to pay all or any portion of any debt or obligation of such district, for the enforcement of which debt or obligation a suit is barred by the laws of this State, nor to pay any bond, coupon, warrant or other indebtedness, claim or demand which shall be barred by the laws of this State prior to the filing of the petition for dissolution with the board of directors of such district. (Added, Stats. 1913, p. 39.)

Alternative Proceedings

SEC. 2½. In case an irrigation district has no indebtedness not barred by the statute of limitations and no assets, and has ceased to be a going concern and has no irrigation system by which it conveys water for irrigation or domestic purposes to any of the residents of such district, the petition for dissolution mentioned in section 2 of said act shall contain statements showing such facts and also that it is the desire of the signers of such petition to have said district dissolved, and such petition need not contain any other statement or allegation, and such petition need only be signed by two-thirds of the qualified electors residing in such district, and by the holders of title or evidence of title representing at least fifty per cent of the acreage within said district and not less than fifty per cent in value of all lands lying within the exterior boundaries of said district, the value of said lands to be determined by the last equalized assessment roll of said district, and such petition so signed and containing such statements and allegations shall be sufficient. In such case the plan of dissolution referred to in section 3 of said act need only show the facts that there is no district indebtedness not barred by the statute of limitations and that the district has disposed of all of its assets; provided, that the petition shall further recite the fact that an application will be made to the superior court for a decree of dissolution of said district under the provisions of said act. And in the case mentioned in this section, it shall not be necessary to obtain the assent of any holder of any evidence of indebtedness of said district barred by any statute of limitations of this State before the election, provided for in said section 3, shall be called.[1] (Added, Stats. 1911, Ex. Sess., p. 118.)

Special Election; Notice; Ballot

SEC. 3. Upon the filing of said petition with the board of directors of said district said board shall call a special election, at which shall be submitted to the electors of such district the question whether or not said district shall be dissolved, its indebtedness liquidated, and its assets distributed in accordance with the plan so proposed, or in case no plan has been proposed, then in accordance with a plan which shall be proposed by said board of directors in the notice of the election, but no such election shall be called until the assent of all the known holders of valid indebtedness against the district shall be obtained or provision shall be made in said plan for the payment of such nonassenting

[1] Compare this section with the provisions of section 2a above.

holders. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors is required to be kept, once a week for at least three successive weeks before such election. Such notices must specify the time of holding the election, the fact that it is proposed to dissolve the district, and a brief summary of the plan proposed for liquidating its indebtedness and disposing of its assets. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers in irrigation districts. At such election the ballot shall contain the words "Dissolution of the district—Yes," or "Dissolution of the district—No," or words equivalent thereto.

Determination of Validity of Proceedings

SEC. 4. In case upon such canvass it is found and declared by said board of directors that two-thirds of the votes cast at such election shall be cast in favor of "Dissolution of the district—Yes," then the said board of directors shall file a petition in the superior court of the county wherein is located the office of such board to determine the validity of the proceedings had and of the proposed plan for the dissolution of said district. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of a notice of the pendency of the proceeding for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending; provided, that if the property of the district is situate in more than one county then the publication shall be made in one paper in each county wherein the same is situate, such paper or papers to be designated by the court having jurisdiction of the proceeding; jurisdiction shall be complete in thirty days after the completion of such notice in the manner herein provided. Anyone interested may at any time before the expiration of said thirty days appear and contest the validity of the proceedings already had and of the plan proposed for the dissolution of said district, or any portion thereof, including the validity of any portion of the indebtedness set out in said petition, and the court may determine the validity of any sales for assessments, and may determine the amount of any assessment or assessments due upon the various parcels and lots of real estate within said district, and may determine the amount of any assessment or assessments theretofore paid upon the various parcels and lots of real estate therein, and may in said proceeding adjust and determine the rights and liabilities of all parties. Such action shall be speedily tried and judgment rendered. Either party shall have the right to appeal at any time within thirty days after the entering of such judgment, and the appeal must be heard and determined within three months after the taking of such appeal.

Hearing; Irregularities to Be Disregarded; Costs

SEC. 5. Said petition to the superior court shall set forth the facts required to be set forth in the petition to the board of directors and all

the proceedings therein, and at the hearing the court shall hear and determine the regularity, legality, and correctness of all proceedings, and in doing so shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this act are made applicable to the proceeding herein provided. The cost of any contest may be allowed and proportioned between the parties or taxed to the losing party in the discretion of the court, and no contest of any matter or thing herein provided for shall be made other than in the time and manner herein specified.

Action by Assessment Payer

SEC. 6. If no such proceeding shall have been filed by the board of directors within thirty days after the canvass of said vote, then any district assessment payer may bring an action in the superior court of the county wherein the office of the board of directors is located. The board of directors shall be made parties defendant and notice shall be served on the members of the board personally, if they can be found in the State, if not, then service by publication as provided in section 4, shall be sufficient. Proceedings shall be had in the same manner and with the same effect as if brought by the board of directors.

Acquisition of Property by Corporation

SEC. 7. A corporation may be organized under general laws for the purpose of acquiring the assets of said district, including the irrigation system, if any, dams, reservoirs, canals, franchises and water rights, which corporation shall have all the powers, rights and franchises of corporate bodies organized under general laws, and in addition shall have such further powers as may be necessary to possess and carry on said irrigation system and exercise such franchise and water rights.

Discharge of Debts and Distribution of Assets

SEC. 8. The court in its decree shall have power to make the orders necessary to carry out said proposition for the discharge of the indebtedness and distribution of the property of said district, including the right to apportion any indebtedness found due, and to declare said portions liens upon the various parcels and lots of land within the district, and may decree a sale of its assets in such manner as may effectuate said proposition and as the said court may judge best, either in one lot or in such parcels as may be provided, and may provide for conveyance of said irrigation system, including dams, reservoirs, canals, franchises and water rights, and also of any other assets of the district, including lands sold thereto and the assessments due it.

Assessment Liens; Redemption

SEC. 9. The amounts of any assessment or assessments found due upon the various parcels and lots of real estate within said district, and the amounts for which sales have been made, which sales have been determined to be valid by said court, together with legal interest from the date of said sales and from the time when said assessments become

delinquent, shall be liens respectively on the lots and parcels affected thereby, and the purchaser or purchasers at said sale may foreclose the same by action in the superior court, and shall in said action join all lots, assessments, and sales which may have been purchased by him and which remain unredeemed. A redemption may be made at any time by payment of the amount due to the clerk of the court for the use of the district if before sale, and for the use of the purchaser if after sale, and the clerk shall thereupon enter a minute of said payment, which payment shall be in the discharge of said lien. Redemption from the lien created for any portion of the indebtedness can be had in this manner.

Distribution of Surplus Property; Decree of Dissolution

SEC. 10. Whenever all the property of such irrigation district shall have been disposed of, and all the indebtedness and obligations thereof, if any there be, shall have been discharged, the balance of the money of said district shall be distributed to the assessment payers in said district upon the last assessment roll in the proportion in which each has contributed to the total amount of said assessment, and the court shall enter a final decree declaring said district to be dissolved.

Contents of Schedule of Indebtedness

SEC. 10½. In the petition mentioned in section 2 of this act it shall not be necessary to include in the schedule of indebtedness any bond, coupon, warrant or other indebtedness, claim or demand which shall have been barred by the laws of this State prior to the filing of said petition with the board of directors of said irrigation district, nor shall it be necessary in winding up the affairs of any district organized under the laws of this State to pay all or any portion of a debt or obligation of such district, for the enforcement of which debt or obligation a suit is barred by the laws of this State. (Added, Stats. 1909, p. 139.)

Effective Date

SEC. 11. This act shall take effect immediately.

INVOLUNTARY DISSOLUTION

An act declaring the conditions upon which an irrigation district may be dissolved, prescribing the procedure therefor, and the winding up of the affairs of the district when dissolved.

(Approved May 18, 1919, Stats. 1919, p. 751; amended, Stats. 1925, p. 220.)

Dissolution Requirements

SECTION 1. Any irrigation district organized under any of the laws of the State of California, providing for the organization of irrigation districts, which

(a) Has been organized more than three years and has failed and neglected to secure an adequate water supply and which does not have a reasonable prospect of securing an adequate water supply for the lands of the district without prohibitive cost, and has failed and

neglected to obtain the approval of the State Water Commission of the water supply of said district and has failed and neglected to obtain the approval of the State Engineer of the plans of said district, and has failed and neglected to construct or acquire a system of works or the financing thereof, and has failed and neglected to obtain the approval of the Irrigation District Bond Commission; or

(b) Has been organized for more than ten years and for more than five years after the construction or acquisition of a system of works has failed and neglected to maintain such works, or for five years or more after such works have been constructed or acquired has failed and neglected to supply or make available, water for the irrigation of more than ten per cent of the lands of the district;

May be dissolved and annulled by the superior court of the county in which said district is located by proceedings in an action brought by the Attorney General in the name of the people of the State of California, upon his own information. Before such an action can be commenced in the courts the Attorney General shall publish for two consecutive weeks in some newspaper published in the county in which the greater portion of the district is located, a notice to all parties in interest that it is his intention to begin such action for the dissolution of said district. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this act are made applicable to the proceedings herein provided. (Amended, Stats. 1925, p. 220.)

Bottoms vs. *Madera Irr. Dist.*, 74 Cal. App. 681, 242 Pac. 100;
People vs. *Honey Lake Valley Irr. Dist.*, 77 Cal. App. 367, 246 Pac. 819.

Investigation and Report by State Engineer

SEC. 2. Before the trial of the case the court may direct the State Engineer to investigate all the affairs of said district; the water supply that may be obtained without prohibitive cost; the feasibility and practicability of irrigating all or a reasonable amount of the lands of said district; and all other matters which the court may direct, or the State Engineer may deem pertinent as affecting the possible success or failure of the district as an irrigation enterprise and which may be necessary to enable the court to determine the question of dissolution.

For the purpose of making such investigation, the State Engineer shall have access to all the records of the district, and all officers and employees and other persons in any manner connected with or employed by said district shall furnish such information as he may require which has already been obtained or determined, including maps, plans, estimates, field notes, and other data.

The State Engineer shall report his findings and conclusions to the superior court as soon as practicable, but within ninety days unless a longer time be granted him by the court, but in no case to extend beyond the period of one hundred eighty days in all.

Dissolution and Disposition of Property

SEC. 3. Upon final judgment of dissolution in such action, the district in question shall be deemed dissolved and annulled. The court shall determine the amount of indebtedness outstanding against said

district, including the costs of the court action herein provided for, and thereafter the appropriate county officers shall act as ex officio officers of the district; the records and papers of every kind belonging to the district shall be turned over to the proper county officers. The county treasurer shall perform the duties of the district treasurer; the county tax collector shall perform the duties of the district tax collector; the county assessor shall perform the duties of the district assessor; the county clerk shall perform the duties of the secretary of the board of directors; the board of supervisors shall perform the duties of the board of directors; they shall proceed to levy and collect such additional taxes as may be necessary upon the lands embraced within such district in the same manner and with the same procedure for nonpayment that county taxes are levied and collected for the purpose of paying such outstanding indebtedness not provided for by previous assessments. All property of every kind belonging to the district, including lands sold to the district for taxes, shall be sold as the court may direct and the proceeds together with all money on hand shall be used to pay off the indebtedness. All funds remaining after all outstanding indebtedness has been paid shall be apportioned and be paid to the assessment payers according to the last assessment roll.

People vs. *Honey Lake Valley Irr. Dist.*, 77 Cal. App. 367, 246 Pac. 819.

Outstanding Indebtedness No Bar to Dissolution

SEC. 4. The outstanding indebtedness, whether of bonds, warrants, or otherwise, of any irrigation district shall not operate as a bar to dissolution by the superior court when provision is made for the payment of such indebtedness in the manner provided in section 3 of this act.

Alternative Method

SEC. 5. This act is designed to provide an alternative method for the dissolution of irrigation districts and shall not be deemed to repeal any other statute or statutes.

As to *quo warranto* proceedings under Sec. 803 of the Code of Civil Procedure, see

People vs. *Selma Irr. Dist.*, 98 Cal. 206, 32 Pac. 1047;
People vs. *Jefferds*, 126 Cal. 296, 58 Pac. 704;
People vs. *Perris Irr. Dist.*, 132 Cal. 289, 64 Pac. 773;
Byington vs. *Sacramento V. etc., Co.*, 170 Cal. 124, 148 Pac. 791.

ESCHEAT OF FUNDS OF DISSOLVED DISTRICT

Code of Civil Procedure, Sec. 1274b.

Whenever any money in litigation in any superior or inferior court, or any excess fees or other money deposited in connection with such litigation, has been or shall be paid into the county treasury, or any money has come or shall come into the hands of a county treasurer as ex officio treasurer of a dissolved irrigation district, and three years thereafter it is made to appear to the satisfaction of the court or judge, by affidavit or by testimony taken in open court, that said money has not been and can not be paid out because the owner thereof can not be found, the court or judge must direct that such money be deposited

in the State treasury for the benefit of the owner thereof or his legal representative, to be paid to him whenever, within five years after such deposit, proof to the satisfaction of the State Controller and the State Treasurer is produced that he is entitled thereto. When so claimed, an affidavit of the claimant setting forth the facts establishing his ownership, and the joint order of the Controller and the Treasurer must be filed by the Treasurer as his voucher, and the amount of the claim paid to the owner or his legal representative on the filing of the proper receipt. If no one claims the amount as herein provided, the money devolves and escheats to the people of the State of California and shall be placed by the State Treasurer in the school fund. (Amended, Stats. 1931, p. 1955.)

9. COOPERATIVE AGREEMENT WITH DISTRICTS IN OTHER STATES

An act to provide for cooperation in acquisition, construction and management of irrigation and drainage works between irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for organization and government of irrigation districts and to provide for the acquisition thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, and contiguous or adjoining districts in or organized under the laws of other states.

(Approved May 23, 1917, Stats. 1917, p. 905.)

Cooperation With Districts in Adjoining States

SECTION 1. It shall be lawful for irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, to enter into agreements with irrigation districts in adjoining states for the joint construction, acquisition, management and control of diverting, impounding or distributing works for irrigation or draining the lands within the boundaries of their respective districts.

Contracts

SEC. 2. Such agreements may be evidenced by written contracts executed on behalf of their respective boards of directors or trustees, or by resolutions entered upon their respective minutes. Such contracts or certified copies thereof and certified copies of such resolutions shall be recorded in the office of the county recorder in each county in which is situated any of the lands of said districts or any of the reservoir sites or other real property owned by said districts or acquired under the provisions of this act.

Property Interests

SEC. 3. Such agreements may provide for joint or several ownership or ownership in common of the property, necessary or convenient for the purposes of this act and may provide for the terms and conditions under which or the respective proportions in which such property shall be held. Any rights or disputes arising out of or from said agreements may be tried before and enforced by any court of competent jurisdiction in the State.

Meetings

SEC. 4. Any meeting of the board of directors of any such district, held in conjunction with the board of directors of the cooperating district, in such district in the adjoining state, if duly and regularly called as required by law or if regularly adjourned to, shall be as lawful and valid as if held at the office of the board of directors of such district in this State.

Diversion of Water in One State to Be Used in Another

SEC. 5. It shall be lawful, for the purposes of such cooperative action to divert water from this State for impounding in the adjoining state or otherwise for distribution to the lands of the cooperating districts regardless of the state in which such lands are situated or to divert water from such adjoining state for impounding or otherwise for distribution to the lands of such cooperating districts in this or the adjoining state.

Ownership of Property Outside State

SEC. 6. So far as may be necessary for fully carrying out the purposes of this act such cooperating district in the adjoining state may hold title to property, in this State and such cooperating district in this State may hold title to property in the adjoining state.

10. COOPERATION WITH FEDERAL GOVERNMENT FOR CONSTRUCTION, OPERATION, OR MAINTENANCE OF WORKS

An act to authorize irrigation districts to cooperate and contract with the United States under the provisions of the Federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and the levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial revenue and determination of the validity of the proceedings in connection with such contract, and to provide for construction of works by the district; to provide for the borrowing or procuring of money from the United States or any agency thereof and the entering into contracts, and or the issuance of bonds, warrants or other evidence of indebtedness for the repayment thereof.

(Approved May 5, 1917, Stats. 1917, p. 243; amended, Stats. 1929, p. 208; 1933, p. 2394.)

Contracts With United States

SECTION 1. In addition to the powers with which irrigation districts have been vested under the act approved March 31, 1897, designated the California Irrigation District Act, and acts amendatory thereof or supplementary thereto, and acts of or to which said act is amendatory or supplementary, irrigation districts heretofore or hereafter organized under said acts shall have the following powers: To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of Congress heretofore or hereafter enacted authorizing or permitting such cooperation, for the purposes of construction of works, whether for irrigation or drainage, or both, or for the acquisition, purchase, extension, operation or maintenance of constructed works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States on account of district lands; also to borrow or procure money from the United States or any agency thereof for the purpose of financing or refinancing of the obligations of the district or the funding or refunding or purchase of the bonds of the district or for any of the purposes of the district authorized by law. (Amended, Stats. 1933, p. 2395.)

General Powers of District

SEC. 2. The board of directors shall generally perform all such acts as shall be necessary to carry out the enlarged powers in this act enumerated. Said board may enter into any obligation or contract with the United States for the aforesaid purposes, and may provide therein for the delivery and distribution of water for the lands of such district under the aforesaid acts of congress and the rules and regulations established thereunder. The contract may provide for the conveyance to the United States as partial consideration for the privileges obtained by the district under said contract, of water rights or other property of the district; and in case contract has been or may hereafter be made with the United States as herein provided, bonds of the district may be transferred to, or deposited with the United States, if so provided by said contract and authorized as hereinafter set forth, at not less than ninety-five per cent of their par value, to the amount to be paid by the district to United States or any part thereof; the interest or principal, or both, on said bonds to be raised by assessment and levy as hereinafter prescribed, and to be regularly paid to the United States and applied as provided in said contract. Bonds transferred to or deposited with the United States may call for the payment of such interest not exceeding six per cent per annum, may be of such denomination, and may call for the repayment of the principal at such times as may be agreed upon between the board and the secretary of the interior. The contract with the United States may likewise call for the payment of the amount or amounts to be paid by the district to the United States or any part thereof at such times and in such installments and with such interest charges not exceeding the aforesaid rate as may be agreed upon, and for assessment and levy therefor as hereinafter provided. Moreover the board may accept on behalf of the district, appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collection of

moneys for or on behalf of the United States in connection with any Federal reclamation project whereupon the district shall be authorized so to act and to assume the duties and liabilities incident to such action, and the said board shall have full power to do any and all things required by the Federal statutes now or hereafter enacted in connection therewith, and all things required by the rules and regulations now or that may hereafter be established by any department of the Federal government in regard thereto. Districts cooperating with the United States may rent or lease water to private lands, entrymen, or municipalities in the neighborhood of the district, in pursuance of contract with the United States.

Election

SEC. 3. Any proposal to enter into a contract with the United States for the repayment of construction moneys, the cost of a water supply or the acquisition of property, and to issue bonds, if any be proposed, shall be voted upon at an election wherein proceedings shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of district bonds. Said proposal, with such plans and estimates of cost as have been made in connection therewith, shall be submitted to the State Engineer for his examination and report, and the proceedings in that regard shall be in accord with section 30 of the act approved March 31, 1897, as amended, in so far as the same may be applicable. Notice of the election herein provided for shall contain in addition to the information required in the case of ordinary bond election a statement of the maximum amount of money to be payable to the United States for construction purposes, cost of water supply and acquisition of property, exclusive of penalties and interest, together with a general statement of the property, if any, to be conveyed by the district as hereinabove provided. The ballots at such election shall contain a brief statement of the general purpose of said contract and the amount of the obligation to be assumed, as aforesaid, with the words "Contract—Yes" and "Contract—No," or "Contract and bonds—Yes" and "Contract and bonds—No," as the case may be. The board of directors may submit any such contract or proposed contract and bond issue if any, to the superior court of the county wherein is located the office of said board to determine the validity thereof and the authority of the board to enter into such contract, and the authority for and validity of the issuance and deposit or transfer of said bonds; whereupon the same proceedings shall be had as in the ordinary case of the judicial determination of the validity of bonds and with like effect.

Distribution of Water

SEC. 4. All water, the right to use of which is acquired by the district under any contract with the United States shall be distributed and apportioned by the district in accordance with the acts of Congress applicable thereto, the rules and regulations of the Secretary of the Interior thereunder, and the provisions of said contract, and provision may be made in the contract between the district and the United States for the refusal of water service to any or all lands which may become

delinquent in the payment of any assessment levied for the purpose of carrying out any contract between the district and the United States.

Rights of Way

SEC. 5. Any rights of way or other property owned or acquired by the district may be conveyed by the board to the United States in so far as the same may be needed for the construction, operation and maintenance of works by the United States for the benefit of the district under any contract that may be entered into with the United States pursuant to this act.

Assessments

SEC. 6. All payments due or to become due to the United States under any contract between the district and the United States, including such payments of interest and principal on bonds as may be required in connection with a deposit or transfer thereof to the United States, shall be paid, unless otherwise provided by contract, by revenue derived from annual assessments, apportioned as hereinafter prescribed, and levies thereof, upon such real property within the district as may be assessable for district purposes under the laws of the State, and such real property shall be and remain liable to be assessed and levied upon for such payments as herein provided. It shall be the duty of the board of directors annually to levy an assessment sufficient to raise the money necessary to meet all payments when due as provided in the contract. All money collected in pursuance of such contract by assessments and levies, or otherwise, shall be paid into the district treasury and held in a fund to be known as the "United States contract fund," to be used for payments due to the United States under any such contract. Public lands of the United States within any district shall be subject to assessment for all purposes of this act to the extent provided for by the act of Congress approved August 11, 1916, entitled "An act to promote reclamation of arid lands," or any other law which may hereafter be enacted by Congress in the same relation, upon full compliance therewith by the district. Nothing in this act contained shall be construed to relieve the district from obligation to pay as a district in case of default of any land, unless so provided by the said contract between the district and the United States.

Apportionment of Assessments for Benefits

SEC. 7. The assessment required in any year to meet the payment due to the United States for all purposes under the contract as in this act provided may be apportioned in accordance with the benefits, and in the ascertainment of such benefits there shall be taken into account the provisions of the contract between the United States and the district, the Federal laws applicable thereto, and the notices and regulations issued in pursuance of said laws, and in case such contract is for the assumption by the district as principal or guarantor of indebtedness to the United States theretofore existing on account of district lands, there shall be further taken into account the provisions of existing contracts carrying such indebtedness and the amounts of such liens as may be released in pursuance of the contract between the United States and the district.

Dissolution or Change of Boundaries

SEC. 8. Where contract shall have been entered into between the United States and any irrigation district the district shall not be dissolved, nor shall the boundaries be changed, except upon written consent of the Secretary of the Interior filed with the official records of the district. If such consent be given and lands be excluded, the areas excluded shall be free from all liens and charges for payments to become due to the United States.

Effect on California Irrigation District Act

SEC. 9. The provisions of the general irrigation district act, approved March 31, 1897, and acts amendatory thereof or supplemental thereto, shall be and remain in force as regards irrigation districts in this act referred to except in so far as herein modified expressly or by necessary implication; and nothing in this act shall be so construed as to affect irrigation district operations not related to cooperation with the United States. However, the provisions of section 53 of said act, approved March 31, 1897, shall not apply in case of any contract between an irrigation district and the United States.

Construction Contracts With United States

SEC. 10. In addition to the other powers enumerated in this act, in any case where the United States or any department thereof under United States authority, is about to construct or is authorized to construct works for the benefit of any such irrigation district and such district is obligated by contract or otherwise to repay the construction cost thereof in whole or in part to the United States or such department thereof, then such irrigation district may by resolution of its board of directors enter into contract with the United States or such department therefor for the construction of such works or may submit bids for construction thereof the same as any other person or corporation could submit bids for the construction of public works, and in the event such irrigation district shall become the successful bidder for such works or any part thereof the irrigation district is authorized to cause to be executed at the cost of the district a bond or bonds for the faithful performance of the work and to do any and all things required by the United States or such department thereof as would be required of any other successful bidder on such works, and such irrigation district shall upon the execution of such construction contract proceed with the work in the same manner and under the same laws, rules, and regulations as would apply to such irrigation district in the construction of any works which such district is authorized to construct and for the purpose of providing the necessary moneys to carry on such construction work the board of directors of such irrigation district is authorized to borrow money for a term not exceeding five years and at rates of interest to be fixed by the board of directors, not exceeding seven per centum per annum, and issue notes, warrants or other evidence of indebtedness therefor; provided, however, that the aggregate amount of such indebtedness shall at no time exceed one-half of the total construction cost as provided by the contract therefor; and provided, further, that any moneys received by such irrigation district from the United States or

any department thereof under such contract shall first be applied to the retirement of such notes, warrants or other evidences of indebtedness. (Added, Stats. 1929, p. 208.)

Sale of District Obligations to United States and Agencies

SEC. 11. In addition to other powers in this act conferred, irrigation districts shall have authority to borrow or procure money from the United States or any agency thereof, for the purpose of financing or refinancing of the obligations of the district or the funding or refunding or purchase of the bonds of the district, or for any of the other purposes of the district authorized by the California Irrigation District Act, or acts amendatory thereof or supplementary thereto. As evidence of such loan or loans and the obligations of such district to repay the same to the United States or any agency thereof, any irrigation district, upon being authorized so to do as provided by section 3 of this act as hereinafter in this section modified, may make and enter into contract or contracts with the United States or any agency thereof, as a condition or requirement to the making of such loan or loans. Such district may issue bonds of such district as may be required by the contract last above provided for or without such contract, containing such terms and conditions and payable in such manner and from such source or sources of income and/or revenue as may be agreed upon between the district and the United States or agency and may obligate and bind the district for the payment of such bonds according to the terms thereof. Such bonds may be serial or sinking fund bonds and may be made callable either by number or by lot and may be made payable to bearer or to the United States or any agency thereof and shall be in the form and authorized and issued in the manner substantially as provided for in the California Irrigation District Act, for the form and issuance of funding and refunding bonds of irrigation districts. Notwithstanding any provision of this act, a proposal to enter into and execute any contract with the United States or any agency thereof as provided for by this section need not be submitted to the State Engineer and a majority vote shall be sufficient to authorize the execution thereof, and the notice of election and ballot need contain only the information required in the case of ordinary bond election and that a proposal to enter into such contract and to issue bonds, if any, may be voted upon together as a single proposition. (Added, Stats. 1933, p. 2395.)

11. COOPERATION UNDER FEDERAL TWENTY-YEAR EXTENSION ACT

An act authorizing and empowering irrigation and reclamation districts to enter into contracts with the United States reclamation service for the reclamation of lands within such districts under the provisions of the so-called "twenty year extension act."

(Approved May 21, 1917, Stats. 1917, p. 781.)

Contracts With Reclamation Service

SECTION 1. The board of trustees, or directors of any irrigation or reclamation district now organized under the provisions of the laws of the State of California, or of any irrigation or reclamation district

hereafter organized under the laws of the State of California, may, in their discretion, whenever it is determined by such board that it is for the best interests of such districts, enter into a contract with the proper officer of the United States Reclamation Service for the reclamation, either by drainage or irrigation of lands within the boundaries of such district, or by preventing high water from overflowing the same, under the provisions of an act of Congress approved August 13, 1914, entitled "An act extending the period of payment under reclamation projects, and for other purposes," which act is commonly known as the twenty year extension act, and from and after the execution of such contract, the amount of indebtedness created thereby shall be and become a lien upon the lands to be benefited by such reclamation work.

Payments

SEC. 2. The board of trustees or directors of any irrigation or reclamation district above mentioned, shall provide by a resolution duly adopted at a regular meeting, or special meeting of such board called for the purpose, for the payments of the amounts to become due under the contract with the United States, according to the provisions of such contract, by assessment upon the lands, in such district, which are to be benefited by such work, such assessment to be collected by the tax collector of the county within which such lands are situated, the same as other taxes are collected, or by any other officer authorized by law to collect assessments within said district.

12. UNION OF DISTRICTS FOR PRODUCTION OF MATERIALS

Political Code, Sec. 4041e.

Cement Plants, Rock Quarries, Etc.

Counties, cities and irrigation districts may jointly or severally purchase, lease, or otherwise acquire, or operate, manage and control rock quarries, rock plants, sand pits, cement plants, and other works or projects for the extraction, manufacture, or preparation of rock, sand, cement and other materials used by them in performing county, city, or district functions. (Added, Stats. 1921, p. 191.)

13. ASSESSMENT OF PUBLIC LANDS

An act to promote the reclamation of arid land and to provide that certain land belonging to the State of California, within the boundaries of an irrigation district shall be subject to the assessments levied in said district.

(Approved May 25, 1917, Stats. 1917, p. 936.)

Assessment of State Lands in District

SECTION 1. Whenever there shall be included in any irrigation district organized and existing under the laws of this State, public lands belonging to the State subject to entry, or which have been entered, and for which no certificates of purchase have been issued, such lands are hereby made and declared to be subject to all of the provisions of law relating to the organization, government and regula-

tion of irrigation districts to the same extent and in the same manner in which the lands of a like character held under private ownership are or may be subject to such law; provided, however, that nothing herein contained shall be construed as creating any obligation against the State of California to pay any of said charges, assessments or debt.

Notice Served on Surveyor General

SEC. 2. All notices required by the act under which such district is organized shall, as soon as such notices are issued, be served upon the Surveyor General of the State of California by mailing to his office a copy thereof enclosed in a sealed envelope with postage prepaid.

Assessment a Lien

SEC. 3. No public lands which were unentered at the time any assessment was levied against the same by such irrigation district shall be sold for such assessment, but such assessment shall be and continue a lien upon such land, and no patent shall issue therefor until the applicant shall present a certificate from the proper district officer showing that no unpaid assessments or charges are due and delinquent against said land.

14. REDEMPTION OF PROPERTY SOLD FOR DELINQUENT ASSESSMENTS

An act relating to the redemption of property sold to irrigation districts for delinquent assessments.

(Approved June 12, 1933, Stats. 1933, p. 2191.)

Lands Sold Prior to April 1, 1933

SECTION 1. In all cases where land has been sold to an irrigation district prior to April 1, 1933, for any delinquent irrigation district assessment and the district still holds the certificate of sale, and a deed for the land has not been taken by the district at any time prior to redemption of the land as provided by law, or by this act, the owner of said land may, notwithstanding any of the provisions of sections 43 and 46 of the California Irrigation District Act, or the provisions of any other section or sections of said act or the provisions of the Palo Verde Irrigation District Act, as amended, redeem the same by the payment in four equal annual installments plus seven per cent interest on all unpaid assessments from the date of sale to the date of redemption. The first installment to be paid on or before March 1, 1934, and each succeeding installment on or before March first of the year in which such installment is due. No other amount shall be required to be paid in order to effect such redemption either by way of penalties for delinquencies, redemption penalties or costs. This act is not intended to repeal or modify any of the provisions of the California Irrigation District Act, nor any of the provisions of the Palo Verde Irrigation District Act, as amended, except as to those sales for delinquent assessments made prior to April 1, 1933.

Scope of Act

SEC. 2. In the event that such property is not redeemed in accordance with section 1 of this act such property can be redeemed only in accordance with the provisions of law which would govern the redemption of such property but for the provisions of this act, and any moneys paid pursuant to the provisions of section 1 of this act shall be credited on the amount necessary for redemption.

Taxes After April 1, 1933, Unaffected

SEC. 3. This act shall not be construed to affect taxes accruing after April 1, 1933, on any property subject to the provisions of this act.

Statement of Emergency

SEC. 4. The Legislature hereby declares that a public emergency of grave character now exists which requires the enactment of the foregoing legislation under the exercise of the police power of the State and in order to conserve the public welfare.

The following is a statement of facts constituting the emergency:

Due to the agricultural depression which has existed for the past several years, many landowners in irrigation districts in the State have been unable to meet their annual taxes and assessments with the result that their land has been sold to the district. The heavy penalties necessary to be paid as now provided by law, and which continually increase, makes it impossible for the landowner to redeem his land and thousands of landowners are now threatened with the loss of their land. If the land is not redeemed and it is deeded to the district, it then becomes nonassessable for district purposes, and the burden becomes all the heavier on the other landowners in the district, causing more delinquency and loss. The Legislature hereby declares that the welfare of the State requires that the landowner in these districts be not dispossessed of his land, and that the land be redeemed so as to thenceforth bear its just proportion of taxation.

15. SETTLEMENT OF WATER RIGHT CONTROVERSIES TO TAX DEEDED LANDS

An act to enable irrigation districts to negotiate settlements of controversies involving alleged damage to the water rights of land within such districts, in cases where the State of California holds a tax title to any land in such district.

(Approved June 16, 1933, Stats. 1933, p. 2557.)

Disclaimer by State

SECTION 1. In all cases in which there are now pending, or may hereafter arise, controversies involving any damage to any and all water rights of any land located within the boundaries of any irrigation district within the State of California, to which land the State of California may now hold, or hereafter acquire, a tax sales certificate, or tax deed, and the conditions hereinafter set forth in section 2 exist, the State of California, as the owner of said tax title, disclaims any

interest in said controversy and authorizes the board of directors of the irrigation district within which the said land is located to make a final settlement of said controversy.

Damages to Be Used for District Purposes

SEC. 2. The damages claimed in said controversy must have occurred prior to the execution of the tax collector's deed to the State of California provided for in section 3785 of the Political Code. The settlement must be upon terms satisfactory to the board of directors of said irrigation district, and the tax title of the State to the land shall remain wholly unimpaired. The net amount of money collected in said settlement, and remaining after the payment of the expenses and attorneys' fees, if any, incurred by said irrigation district in said controversy, shall be paid into the treasury of the said irrigation district and be used solely for district purposes in the manner that the board of directors thereof shall specify.

16. CANCELLATION OF TAXES[1]

Political Code, Sec. 3804a.

Cancellation of Taxes Erroneously or Illegally Assessed

Any uncollected tax, or assessment, or portion thereof, or penalty or costs thereon, heretofore or hereafter assessed, charged or levied more than once, or erroneously or illegally, or upon that portion of an assessment found to be in excess of the actual cash value of the property assessed, by reason of a clerical error of the assessor, or upon an assessment for improvements on land when such improvements did not in fact exist at the time said tax or assessment became a lien, or upon an assessment of property which after the time said tax or assessment became a lien was acquired and owned by the State, or by any county, city and county, municipal corporation, school district or other political subdivision and which, because of such public ownership, is not subject to sale for delinquent taxes, may, upon satisfactory proof thereof, be canceled by the officer having custody of the record thereof upon the order of the board of supervisors, or other governing board with the written consent of the district attorney, city attorney or legal advisor of said board; provided, that no cancellation shall be made of such charges on property exempt from taxation in event of failure to comply with the provisions of law, if any, relative to the manner of claiming such exemptions.

If real property has been sold to the State or other subdivision for nonpayment of any tax levied as described in this section, and a certificate of sale or deed therefor has been issued to the State, or other subdivision and the State or other subdivision has not disposed of the property so sold, the order of the board shall also direct the officer having custody of the record thereof to cancel the certificate of sale or deed so issued.

---

[1] See p. 50, Cancellation of Bonds and Interest Coupons; also *supra*, Satisfaction of Taxes and Assessments by Surrender of Obligations.

In the City and County of San Francisco, the written consent of the city attorney shall have the same effect as the written consent of the district attorney. (Amended, Stats. 1925, p. 431.)

See

La Mesa etc. Irr. Dist. vs. Hornbeck, 216 Cal. 730;
People vs. Supervisors, 126 Cal. App. 670.

17. PURCHASE OR USE OF LANDS DEEDED TO THE STATE FOR TAXES

Political Code, Sec. 3897d.[1]

Lands Deeded Both to the State and Public Corporations for Delinquent Taxes or Assessments

Whenever any property has been deeded for delinquent taxes and/or assessments to the State, and said property has also been deeded for delinquent taxes and/or assessments to any municipality, irrigation district, reclamation district, or other public corporation or district, or to any county treasurer as trustee for a reclamation district as provided by law, the board of trustees, board of directors or other governing body of any such public corporation or district, or such county treasurer, with the consent of the board of trustees of the reclamation district for which he holds such property as trustee, may enter into an agreement with the board of supervisors of the county in which such property is situated, subject to the approval of the State Controller as hereinafter provided, for the purchase of, or for an option to purchase, the property so held by the State, or any part or parts thereof. The term "public agency" as used in this section means any such municipality, irrigation district, reclamation district or other public corporation or district or any county treasurer who shall have taken title to any land as trustee for a reclamation district as provided by law, and the term "public agencies" as used in this section means more than one public agency of any kind or kinds. The word "county" as used in this section shall be construed to include city and county. In case two or more public agencies shall have taken title to the same property, they may jointly agree with the board of supervisors of the county in which said property is situated for the purchase of, or for an option to purchase, said property so deeded to the State, or any part or parts thereof, and such agreement may provide for the conveyance of said property to one of such public agencies, or to any two or more of them, with such interests therein as may be provided in said agreement. Any such agreement may cover any land deeded to the State for delinquent taxes and or assessments without regard to the boundaries of the parcels in which it was deeded to the State, and may provide for the sale of various portions of said land at various prices and on various terms and for an option or options to purchase the remaining portion or portions thereof, but no option to purchase any such land shall be

[1] Chapter 1007, Statutes of 1933, contained the following:

This bill having been returned by the Governor with his objections thereto and, after reconsideration, having passed both houses by the constitutional majority, has become a law this nineteenth day of July, A.D. 1933.

FRANK F. MERRIAM,
President of the Senate.
WALTER J. LITTLE,
Speaker of the Assembly.

given for a period of more than three years. Notwithstanding any other provision or provisions of this code or of any law or laws governing any public agency or public agencies which may become a party or parties to any such agreement, it may provide for the price or prices for which and the terms on which the property described therein may or shall be purchased, and when any such agreement shall have been signed by the State Controller as herein provided, the price or prices and the terms set forth in said agreement shall be the lawful price or prices for which and the lawful terms on which said property may or shall be sold. As many executed copies of said agreement as there are parties to it and one additional executed copy shall be submitted to the State Controller. If he shall not approve the agreement, he shall return a copy of it to each party thereto, with a statement of his objections to it, and thereafter a new or modified agreement may be made. If the State Controller shall approve the agreement, he shall sign each executed copy thereof and return one copy so signed to each party thereto, and keep one executed copy thereof on file in his office. Thereupon he shall, by written authorization, direct the tax collector of the county in which the property described in said agreement is situated to cause notice in writing of the making of said agreement to be given as hereinafter provided. Said notice shall describe the property covered by the agreement substantially as described therein, and shall state the name of the person to whom the property was assessed, or the various persons to whom the property or any portions thereof were assessed, for each year in which there may be delinquent taxes against said property or any part or parts thereof, and said notice shall also state that an agreement for the sale of said property or for an option to purchase it, or both, as the case may be, has been made by the board of supervisors of the county with the public agency or public agencies named in the agreement and has been approved by the State Controller, and that a copy of said agreement is on file in the office of said board of supervisors. Said notice shall be published for at least three successive weeks in some newspaper published in the county in which said property is situated, or if there be no newspaper published therein, then by posting copies of said notice in three conspicuous places in the county, one of which shall be in the United States post office nearest the land, in addition to a notice conspicuously posted on the land itself for the same period. The tax collector shall also mail, within five days after the first publication of said notice, a copy thereof, postage thereon prepaid and registered, to the party to whom the land was last assessed next before the making of said agreement, at his last known post-office address, or if no address is known for such party, then to the county seat of the county in which said land is situated, or, if various portions of the property covered by said agreement were last assessed to various parties, then a copy of said notice shall be mailed as aforesaid to each party to whom any portion of said land was last assessed. The cost of giving the notice of said agreement as aforesaid shall be paid by the public agency or public agencies by which the property described therein is to be or may be purchased as provided therein. An affidavit or affidavits showing that notice has been given as herein prescribed shall be filed in the office of the county tax collector, and said agree-

ment shall not become effective until twenty-one days after the first publication and the mailing or until twenty-one days after the posting and mailing of said notice as herein provided. It shall not be necessary to mail said notice to a party if such party shall file with the tax collector a written acknowledgment of receipt of a copy of said notice or a waiver of said notice. If within twenty-one days after the first publication and the mailing or the posting and mailing of said notice as herein provided, said property or any of it is redeemed as provided in this code, or if said property or any of it is thereafter redeemed before the purchaser or purchasers named in said agreement shall have complied with all the terms of purchase therein set forth, then the agreement shall become and be null and void as to the property so redeemed, but if said property or any of it is not so redeemed, then whenever the public agency or public agencies named in said agreement as the purchaser or purchasers or optionee or optionees of said property shall have complied with all of the terms thereof required for the purchase of said property or any portion thereof, the tax collector of the county in which said property or such portion thereof is situated shall make, execute and deliver to such purchaser or purchasers a deed to said property, or such portion thereof as to which the terms of said agreement shall have been complied with, which deed shall be in substantially the following form:

"This indenture, made the _____ day of _____, 19___, between _____ as tax collector of the county of _____, State of California, first party, and _____, (designating the public agency or public agencies purchasing the property) second party (or second parties), Witnesseth:

"That whereas, the real property hereinafter described was duly sold and conveyed to the State of California for the nonpayment of taxes which had been legally levied and which were a lien upon said property under and in accordance with law; and

"Whereas, the right of redemption of said property has been terminated as provided in section 3897e of the Political Code and second party has (or second parties have) purchased said property in accordance with the provisions of said section; now, therefore,

"Said first party does hereby grant to said second party (or second parties) all that certain real property in the county of _____, State of California, described as follows:

(Insert description)

"Witness my hand:

_____

"As tax collector of said county of _____."

Upon the execution of said deed, all rights to redeem said property as provided in this code shall be terminated. No fee shall be charged for making said deed, and it shall be, except as against actual fraud, conclusive evidence of the performance of all the requirements of this section and shall otherwise have the same effect as evidence and as a conveyance as a deed issued as provided in section 3898 of this code.

Any payment or payments required by said agreement to be made for the purchase from the State of the property described in said

agreement, or any part thereof, shall be made to the county tax collector and shall be distributed as provided in section 3898 of this code.

In case any property has been deeded to two or more public agencies, pursuant to sales for delinquent taxes and/or assessments, any one or more of the public agencies holding title to said property may sell and convey or agree to sell and convey its or their interest therein, or in any part thereof, to any other public agency or public agencies holding any interest therein, for such price and on such terms as they may agree upon, and any such public agency is hereby expressly authorized to purchase the interest of any other public agency in such property, or to unite with any other public agency in the purchase thereof, whether said property has been deeded to the State or not. (Added, Stats. 1933, p. 2580.)

Political Code, Sec. 3774.[1]

Use of Tax Deeded Lands Within Irrigation Districts

Whenever land shall have been deeded to the State as provided by section 3785 of this code and shall also have been deeded to a political subdivision or State taxing agency on account of delinquent taxes or assessments and lies within the confines of an irrigation district actually delivering water to lands within such district, such irrigation district shall have the sole right of possession and shall make such provision for the rental, lease or cultivation of such lands as in the opinion of its board of directors is proper. If any such land lies within a municipality not in an irrigation district the right of possession shall be in the municipality and the duty for providing for the rental and care of the property shall rest in the governing board of said municipality. If any such land lies in neither an irrigation district or a municipality, the right of possession thereof shall rest in the county in which it is located and the duty of providing for the rental and care of the property shall rest upon the board of supervisors of said county. Any rental or lease executed as aforesaid by any of said agencies shall not exceed the period of one year, and the deed given, as provided by section 3897 of this code, shall be subject to any such lease or rental made prior to the date of such deed, as provided in this section.

Any agency providing for such lease or rental shall keep a strict account of all expenses involved in each individual parcel and the cost of furnishing water by an irrigation district shall be included in such expenses and the net proceeds derived from any agency by reason of rental, lease or cultivation of any such land, after deducting costs of operation, shall be deposited in a fund to be known as "Tax land operation trust fund."

On or before the first day of January of each year it shall be the duty of the auditor, or other official acting in that capacity, of the taxing agency lawfully in possession of any such land to notify the

[1] Chapter 1012, Statutes of 1933, which amended section 3897 and added section 3774, also contained the following:

This bill having been returned by the Governor with his objections thereto, and, after reconsideration, having passed both houses by the constitutional majority, has become a law this eighteenth day of July, A.D. 1933.

FRANK F. MERRIAM,
President of the Senate.
WALTER J. LITTLE,
Speaker of the Assembly.

State Controller or governing board of any political subdivision which has the right to levy taxes or assessments upon such land of the net amount on hand arising from such lease, rental or cultivation of each individual parcel, by United States mail, postage prepaid. Upon the receipt of such notice it shall be the duty of the State Controller or the governing board of any political subdivision having taxes or assessments levied upon such property to cause a claim to be filed with the auditor, or other officer in that position, of the political subdivision from which said notice was received setting forth the amount of taxes or assessments first levied by it and still unpaid on the parcel for which claim is made.

Upon the expiration of six months from the date of mailing such notices it shall be the duty of the auditor, or other officer in that position, of each political subdivision having sent such notices to present all such claims to his governing board, which board if it allows such claims, shall forthwith order said auditor, or other officer in that position, to draw his warrant in favor of claimants pro rata in accordance with the proportion which each claim bears to the total first year's taxes or assessments levied by and still unpaid to each and all political subdivisions, including the State of California. If the governing board receiving said claims should dispute the same or any thereof all of the money in said trust fund from the particular parcel involved in the claim disputed shall remain in said trust fund until the possession thereof is settled by agreement or by order of a court of competent jurisdiction.

As used in section 3774 and 3897 the term "political subdivision" includes a city, city and county, irrigation district and any district formed or organized for the management, government or operation of a part or portion of the State. (Added, Stats. 1933, p. 2588.)

Political Code, Sec. 3897.[1]

Objection to Sale of Tax Deeded Lands

3897. Except when otherwise disposed of as provided in section 3897a and 3897b of this code, whenever the State shall have become the owner of any property sold for taxes and the deed to the State has been filed with the Controller as provided in section 3785, the tax collector of the county, or city and county, in which said land is located shall sell at public auction to the highest bidder for cash in lawful money of the United States the property or any part thereof when directed by the board of supervisors of his county in the manner following; provided that the tax collector shall not proceed with the sale of any land within any political subdivision or taxing agency which has taken title to said land, if the governing body of said subdivision or agency shall file with the tax collector and the board of supervisors certified copies of a resolution adopted by such governing body objecting to such sale.

[1] Chapter 1012, Statutes of 1933, which amended section 3897 and added section 3774, also contained the following:

This bill having been returned by the Governor with his objections thereto, and, after reconsideration, having passed both houses by the constitutional majority, has become a law this eighteenth day of July, A.D. 1933.

FRANK F. MERRIAM,
President of the Senate.
WALTER J. LITTLE,
Speaker of the Assembly.

He must give notice of such sale by publication once in some newspaper published in the county or city and county, or if there be no newspaper published therein, then by posting a notice in three conspicuous places in the county or city and county, one of which shall be in the United States post office nearest the land. In addition to such publication or posting a copy of the notice shall be conspicuously posted on the land itself. Such publication and posting must be completed not less than three weeks prior to the sale. Such notices must state specifically the place and the day and hour of sale and shall contain a description of the property to be sold and shall also contain the name of the person to whom the property was assessed, on the county assessment roll for each year on which there may be delinquent taxes against said property or any part thereof. It shall be the duty of the tax collector to mail within five days, after the publication of said notice of sale a copy of said notice, postage thereon prepaid to the party to whom the land was last assessed nearest before the sale, at his last known post-office address, and shall also mail a copy of said notice, postage prepaid, to the State Controller and clerk or secretary of the governing board of each political subdivision or taxing agency having the right to levy taxes or assessments on the land involved and any such subdivision or agency having taxes or assessments levied on any parcel may bid on such parcel.

All moneys received on account of any such sales shall be immediately transmitted by the tax collector to the county treasurer together with a report showing the amount of costs which the county has expended on account of the making of such sale, showing the total sums received for individual parcels, which parcels shall be identified in said report by year, page and number of delinquency roll, and a duplicate thereof shall be filed with the county auditor and the board of supervisors, which shall, at its first regular meeting in not less than five nor more than thirty days thereafter, confirm or reject said sale. Upon rejection the purchase money shall be refunded. Upon confirmation, the tax collector shall issue a deed to the purchaser. The amount of expenses so reported shall be deposited in the county general fund and the balance shall be deposited in the delinquent tax sale trust fund.

Upon the receipt of said duplicate report and such confirmation by the board of supervisors the auditor shall mail a copy thereof to the State Controller and to the secretary or clerk of the governing board of each political subdivision capable under the law of levying taxes or assessments upon the land covered by such sale, and shall enclose therewith a notice describing such land, and that claims on the amount received from the sale thereof must be made within a period of six months from the date of the mailing of such notices.

Upon the receipt of such notices it shall be the duty of the State Controller and the governing board of any political subdivision having taxes levied upon the land described in said notices to forward a claim thereon to the county auditor setting forth the amount of the tax or assessment first delinquent levied on such land, by, and still unpaid to, the political subdivision or district for which said claim is being made. On the first meeting day of the board of supervisors following the expiration of six months from the date of mailing such notices, as aforesaid, by said county auditor, the county auditor shall present all such

claims received by him to the said board of supervisors and the board of supervisors if said claims be correct, shall order the money received from the sale of each parcel of land to be divided pro rata among the taxing agencies having filed claims in accordance with the proportion which such first delinquent tax or assessment bears to the total of all such taxes or assessments first delinquent in each district or political subdivision involved, and the auditor shall draw and mail warrants on said delinquent tax sale trust fund in accordance with said order. If the board of supervisors dispute the correctness of any such claim, the money received from the sale of the individual parcel or parcels involved in such disputed claim shall remain in said trust fund until the settlement of said claim by agreement of the governing boards or officers of the various taxing agencies or by judgment of a court of competent jurisdiction.

A deed given by the tax collector upon a sale made as in this section provided shall convey title to the purchaser free and clear of all liens, taxes, assessments or encumbrances of any kind or character whatsoever levied or assessed or liened on the property which are due at the time of such sale so conveyed prior to the date of such sale, and except as against actual fraud, such deed duly acknowledged shall be prima facie evidence of the regularity of all proceedings from the assessment of the assessor to and including the execution of such deed.

No action, suit or proceeding to set aside, cancel, or question the validity of any proceedings instituted under the provisions of this section shall be instituted or maintained unless the same shall have been commenced within six months after the date of the execution of the deed of the tax collector and thereafter all persons shall be barred from commencing or prosecuting any such action or maintaining any defense in any action based upon the alleged invalidity or alleged irregularity in such proceeding. The burden of proof in any such action or proceeding shall be upon the plaintiff to show invalidity of taxes, assessments, or sales of which he complains.

If no other taxing agencies, except State and county, or city and county, are involved the amount received from the sale shall be distributed as provided in section 3898.

Any deed given under this section shall be subject to any lease theretofore given under the provisions of section 3774. (Amended, Stats. 1933, p. 2585.)

18. DRAINAGE BY IRRIGATION DISTRICTS

An act to provide for drainage by irrigation districts.

(Approved March 18, 1907, Stats. 1907, p. 569.)

District May Provide Drainage

SECTION 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such districts may provide for any and all drainage made necessary by the irrigation provided for by such laws; and the officers, agents and employees of such districts shall have the same powers, duties and liabilities respecting such drainage, and the construction, repair, maintenance, management and control thereof as they now have or may hereafter have respecting such irrigation, and all laws respecting such irrigation or such irrigation

districts shall be so construed, applied and enforced as to apply to such drainage as well as such irrigation.

Duty of Directors to Provide Drainage

SEC. 2. Whenever it appears necessary, or proper, or beneficial to the lands affected thereby, to drain such lands or any portion thereof on account of the irrigation which has been done, or which is intended to be done under such laws, whether for the purpose of more beneficially carrying on such irrigation, or to protect such districts from liability by reason of such irrigation, whether the irrigation works have already been constructed or not, it shall be the duty of the board of directors to provide for such drainage, and said board and its officers, agents and employees shall do all necessary and proper acts for the construction, repair, maintenance and management of drainage work for such purpose.

Effective Date

SEC. 3. This act shall take effect immediately.

Sutro Heights vs. *Merced*, 211 Cal. 670;
Edmunds vs. *Glenn-Colusa Irr. Dist.*, 85 Cal. Dec. 218;
Spurrier vs. *Mitchell Irr. Dist.*, 74 A. L. R. 884;
Middlekamp vs. *Bessemer*, 23 L. R. A. (N. S.) 801.

19. DEVELOPMENT OF ELECTRIC POWER

An act to provide for the development of electrical power by irrigation districts.

(Approved May 21, 1919, Stats. 1919, p. 778; amended 1921, pp. 829, 1083; 1923, p. 629.)

Irrigation District May Develop Power

SECTION 1. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such district may provide for the construction, acquisition, operation, leasing and control of plants for the generation, distribution, sale and lease of electrical energy including sale to municipalities, corporations, public utility districts, or individuals, of electrical power so generated; and said district, subject, however, to the conditions in this section contained, may make special appropriations of water for power purposes, as required by law; provided, however, that any use of water for generating such electrical power or energy at any given time of the year, which use is in excess of the water appropriated and beneficially used for irrigation purposes by such district at said period of the year, shall be subject to all prior existing appropriations by any municipal corporation, who or which is proceeding in good faith in the expenditure of money and the construction of works designed to divert the water appropriated. The officers, agents and employees of such districts shall have the same powers, duties and liabilities respecting such power and the construction, acquisition, repair, maintenance, management and control thereof as they now have or may hereafter have respecting such irrigation or such irrigation districts. The California irrigation district act shall be so construed, applied and enforced as to apply to such power as well as such irrigation, except that nothing in said act shall be so construed as to prevent the sale of power by any district for use outside of the

boundaries of such district or to require the distribution of such power in accordance with any assessments levied by such district. (Amended, Stats. 1923, p. 629.)

Yolo vs. *Modesto Irr. Dist.*, 216 Cal. 274.

Management of Works

SEC. 2. The board of directors of any irrigation district and its officers, agents and employees, shall do all necessary and proper acts for the construction, repair, maintenance, and management of such electrical power works for such purposes.

Issuance of Bonds

SEC. 3. In case funds are not otherwise available an irrigation district may issue bonds for such purpose and all of the provisions of the California irrigation district act, relating to the issuance of bonds for other purposes, and all other acts relative to bonds issued under the California irrigation district act, in so far as the same are applicable to said bonds shall apply. (Amended, Stats. 1921, p. 829.)

Conflicting Acts Repealed

SEC. 4. All acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

20. RIGHTS OF WAY FOR POWER LINES

An act granting to irrigation districts of the State of California the right to construct, operate and maintain electric light and power lines along or upon any road, street, alley, avenue or highway, or across any railway, canal, ditch or flume.

(Approved May 25, 1923, Stats. 1923, p. 449.)

Rights of Way for Irrigation District Electric Light and Power Lines

SECTION 1. That there is granted to every irrigation district of the State of California the right to construct, operate and maintain electric light and electric power lines along or upon any road, street, alley, avenue or highway, or across any railway, canal, ditch or flume which the route of such work intersects, crosses or runs along in such manner as to afford security for life and property, but the irrigation district shall restore the road, street, alley, avenue, highway, railway, canal, ditch or flume thus intersected to its former state of usefulness as near as may be; provided, however, that such irrigation district may not use any street, alley, avenue or highway within any city for such purpose, unless the right so to use the same is granted by a vote of the governing body of such city which shall have the right to impose reasonable conditions upon such use; provided, also, that such grant of authority shall not be necessary in any case where the street, alley, avenue or highway, or a portion thereof, proposed to be used for the purpose of constructing, operating or maintaining any such works, or any part thereof, is a necessary or convenient part of the route of such works and at the time construction thereof was commenced, or the plans adopted therefor, was located in territory not then within an organized city.

INDEX

	Section	Page
ACTIONS.		
Assessments, collection of	41a	110
Assessments, irrigation district, validity of	68–70	129–131
Assessments and warrants of improvement districts, validity of	16	156
Bonded indebtedness of irrigation district, relief from	73a	132
Bondholders' action against irrigation district	113	149
Bonds and assessments: limitation of actions	72	131
Bonds, irrigation district, validity of	68–70	129–131
Cancellation of irrigation district bonds and coupons		50
Dissolution, involuntary, of irrigation district	1	172
Indebtedness of irrigation district, compromise or satisfaction of		40
Levy and collection of irrigation district assessment: suit by district attorney for expenses	39b	107
Revenue bonds for water-works systems, validity of	14	58
Warrants: limitation of actions	61a	126
ADVERTISING FOR CONSTRUCTION CONTRACT BIDS	53	119
APPROPRIATION for Districts Securities Commission	20	39
ASSESSMENTS. *See* Irrigation District Act—Assessments.		
ASSESSOR, Irrigation District. *See* Irrigation Districts—assessor.		
ASSESSOR, COUNTY.		
Irrigation district assessment: levy and collection on failure or refusal of district	39b	107
Omitted lands, assessment of	39c	108
ATTORNEY GENERAL.		
Assessments of irrigation districts: enforcement of levy and collection	39c	107
Dissolution, involuntary, of irrigation district	1	172
Districts Securities Commission Member	1	32
BANKS, Superintendent of: Member of Districts Securities Commission	1	32
BIDS. *See* also Notices and Publications.		
Construction Contracts	53	119
Water leases of irrigation districts	101	145
BOND Certification Commission, California: Succeeded by Districts Securities Commission	15	38
BONDS, INDEMNITY.		
Construction contracts, irrigation district	53	120
Irrigation district construction work	1	18
Lessee of water from irrigation district	105	146
BONDS, Irrigation District. *See* Irrigation District Bonds.		
BONDS, Official.		
Officers of irrigation districts	19a	79
Premiums, a district charge		27
CALIFORNIA Districts Securities Commission. *See* Districts Securities Commission, California.		
CALIFORNIA Irrigation District Act. *See* Irrigation Districts.		
CALIFORNIA, State of: Control and regulation of use of water (California Const.)		9
CANALS.		
Destruction, malicious, prohibited		15
Highways not to be obstructed by		16
Irrigation district: Hunting prohibited		14
Lease by irrigation districts	15d	76
Taking water from, prohibited		14
CLAIMS.		
Against irrigation districts	54	120
Expenses of officers and employees of irrigation districts	54a	124
False: presentation with intent to defraud, a felony		21
Materialmen, laborers, etc.: filing	2	19
CONDEMNATION Proceedings. *See* Eminent Domain.		
CONSOLIDATION of Irrigation Districts		159
CONSTITUTION, CALIFORNIA.		
Eminent domain by irrigation districts (Art. I, Section 14)		11
Funds, deposit of (Art. XI, Section 16½)		42
Irrigation district bonds exempt from taxation (Art. XIII, Sec. 1¾)		39

	Section	Page
CONSTITUTION, CALIFORNIA—Continued.		
Irrigation district bonds: place of payment (Art. XI, Sec. 13½)		39
Irrigation districts: Acquisition of stock of water corporations authorized (Art. IV, Sec. 31)		13
Irrigation districts: Supervision by Legislature (Art. XI, Sec. 13)		10
Riparian rights restricted (Art. XIV, Sec. 3)		9
Water: use a public use (Art. XIV, Sec. 1)		9
CONTRACTS.		
Construction, award of	53	119
Cooperation of districts with United States		175
Cooperation with districts in other states		174
Federal Reclamation Service, district contracts with		180
Interest of district directors and officers prohibited	58	124
CONTROLLER, STATE.		
Bond report of districts securities commission, filing of	5	33
Irrigation district bonds, certification of	8	34
Lands deeded to State and district for taxes, supervision of purchase of		185
CREDIT MEMORANDA.		
Acceptance in payment of assessments	52a	119
Issuance for matured bonds and coupons	52a	119
CRIMES.		
Felonies—		
False claims, presentation with intent to defraud		21
Wages, retention of		26
Misdemeanors—		
Canals, ditches, flumes, etc., destruction of		15
Canals, ditches, flumes, etc., trespass on		14
Construction of public works law, violation of		18
Hours of labor law, violations of		26
Hunting on irrigation district canal banks		14
Interest in district contracts by officers and directors	58	124
Trespass on canals, flumes, ditches, etc.		14
Wages of labor law, violations of	5	24
COUNTIES.		
Irrigation district bridges across highways, maintenance of		16
Operation agreements with irrigation districts		181
Treasurer as custodian of irrigation district funds	54	120
DEEDS.		
Collector's, effect of	48	117
Collector's deed for unredeemed property, form of	47	115
Lands deeded to State for taxes: purchase by district		187
Releases to district property	48a	117
DISSOLUTION OF IRRIGATION DISTRICTS.		
Escheat of funds		173
Involuntary		171
Voluntary		166
DISTRIBUTION Systems for cities, plans and specifications for		28
DISTRICT ATTORNEY.		
Assessments of irrigation districts: enforcement of levy and collection	39c	107
Expenses of levy and collection of irrigation district assessments, action for	39b	107
DISTRICTS, Irrigation. *See* Irrigation districts.		
DISTRICTS SECURITIES COMMISSION, California.		
Act, California Districts Securities Commission		31
Appropriation for	20	39
Approval of periodical bond sales	6	34
Bond Certification Commission, succeeds to	15	38
Bonds, Irrigation District—		
Calls, approval of	31, 32b	94, 97
Compromise	12	37
Defaulted obligations, payment of	11	35
Funding and refunding, approval of		40, 96
Funding and refunding: payment from contract proceeds	32d, 32e	98, 99
Limitations on approval	4	32
Private sales, approval of	32	95
Redemption, approval of	31, 32b	94, 97
Reports by districts	30a	90
Creation, personnel, compensation	1	32
Defaulted bonds and obligations	11	35
Examination of books and records of irrigation districts	10	35
Employees, appointment and compensation of	13	37
Expenditures from bond proceeds, approval of	6	34
Irrigation districts, jurisdiction over	2	32

	Section	Page
DISTRICTS SECURITIES COMMISSION, California—Continued.		
Meetings	13	38
Report on district bonds	4	32
Report on districts, payment of cost of	16	38
Report to controller on irrigation district bonds	5	33
Rules and regulations	13	38
Warrants of districts: Approval of payment plan	61a	126
Water leases, approval of	18	79
DITCHES.		
destruction, malicious prohibited		15
highways not to be obstructed by		16
irrigation: bridging across highways		16
irrigation district: flowage during high water	63	128
taking water from, prohibited		14
DRAINAGE by Irrigation Districts		191
ELECTIONS. *See* also Irrigation Districts—elections.		
Bonded indebtedness, reduction of	98–99½	144–145
Bonds, unsold, destruction of	106–108	146–147
Consolidation of irrigation districts	5	160
Dissolution of irrigation district, voluntary	2a, 3	167–168
Irrigation districts: general	19	79
Irrigation districts: organization	6	68
Revenue bonds for waterworks system	4	53
ELECTRIC POWER: development by irrigation district		192
EMINENT DOMAIN.		
Irrigation districts	15, 16	72, 77
Irrigation Districts: power of (California Const.)		11
Irrigation: subject of		11
Irrigation works: acquisition by district	61b	127
Rights of way for irrigation works	56	122
Waterworks Systems, acquisition of	9	56
ENGINEER, STATE.		
Consolidation of irrigation districts: investigation and report	3, 4	160
Construction and financial reports from districts	54½	121
Contracts of districts with United States	3	177
Dissolution, involuntary of district: investigation and report	2	172
District Securities Commission member	1	32
Expenditure of irrigation district bond proceeds, inspection of	6	34
Information on organization of irrigation districts	2a	67
Investigation of construction of irrigation works	53a	120
Investigation of proposed irrigation district	2	63
EXECUTORS AND ADMINISTRATORS.		
Petition for exclusion of lands from irrigation district	83	137
Petition for inclusion of lands in irrigation district	96	144
Petition to organize improvement district within irrigation district, signing of	2	150
Power to sign petitions under district act	1	61
FELONIES.		
false claims: presentation with intent to defraud		21
Wages, retention of		26
FLOOD CONTROL by districts of 500,000 acres		162
FLUMES.		
destruction, malicious, prohibited		14, 15
highways not to be obstructed by		16
taking water from, prohibited		14
FUNDS, Irrigation District, establishment of	67	129
GOVERNOR, Districts Securities Commission member	1	32
HEARINGS.		
Assessments, equalization of	38	105
Assessment, special rate of	35c	103
Bonds and coupons, cancellation of	4	51
Improvement district within irrigation district	5	151
Organization petition for irrigation district before county board of supervisors	2	64
HIGHWAYS.		
drainage of water onto, prohibited		15
HUNTING in irrigation districts prohibited		14
IMPROVEMENT DISTRICTS.		
within irrigation districts		149
assessment, annual	11	154
assessment, levy of	6	152
assessment, notice of	4	151
hearing on formation	5	151
petition to organize	1, 2	149, 150
survey for proposed assessment	3	150

	Section	Page
IMPROVEMENT DISTRICTS—Continued.		
within irrigation districts—Continued.		
validating act of 1933		156
validating act of 1931		157
warrants	7	153
water tolls in lieu of assessments	12	155
INSURANCE.		
irrigation district liability	29	131
IRRIGATION.		
ditches across highways		16
public use		11
IRRIGATION DISTRICT ACT., California. *See* Irrigation Districts.		
IRRIGATION DISTRICT BONDS. *See also*, Districts Securities Commission, California.		
actions by bondholders	113	149
approval by districts securities commission	4	32
assessments for	33, 39	100, 105
authorized purposes	30	89
cancellation of		50
certification by State Controller	8	34
certification, resolution for	3	32
compromise of	12	37
compromise or satisfaction of in case of default		39–42
consolidation of districts	10	162
coupons, cancellation of		50
defaulted: payment of	11	35
districts of 500,000 acres: flood control	2	163
duplicate, issuance of		48
elections. *See* Irrigation Districts—elections.		
electrical power, development		193
exchange for irrigation works	61b	127
expenditures: approval by districts securities commission	6	34
form and denomination	31	93
Funding and refunding	32a	96
payment from contract proceeds	32c	98
plans for		39–42
sale or exchange	32c	98
redemption of	32b	97
Interest fund	67	129
Legal investments if certified	9	35
Lien not released by exclusion of lands	84	138
Payment of district assessments with matured bonds and coupons	52a	119
Payment, place of (California Const.)		39
Principal fund	67	129
Purposes of	30	89
Redemption of bonds and coupons	52	118
Reduction of indebtedness	98–99½	144–145
Release of bond liens from excluded lands	79	136
Relief of lands in district from indebtedness of	73a	132
Sales of	32	95
Sales, periodical: approval by districts securities commission	7	34
Sales to United States	11	180
Security for public deposits		43
Security for State deposits		44
Taxation, exemption from (California Const.)		39
Unsold: destruction	106–108	146–147
Validating Act of 1925		45
Validating Act of 1931		46
Validating Act of 1933		47
Validity of, actions to determine	68–70	129–131
Validity on exchange for irrigation works	61c	127
IRRIGATION DISTRICTS.		
Agreements with districts in other states		174
Area of 500,000 acres		162
assessments	4	163
bonds	2	163
flood control	1	162
property qualifications	4a	162
Assessments		
actions to determine validity of	68, 70	129–131
amount of	39	105
assessment book	35, 35a	101, 102
assessment book, completion of	37	104
bond assessments	33	100
by district attorney in lieu of board of directors	39c	107

IRRIGATION DISTRICTS—Continued.	Section	Page
Assessments—Continued.		
canals and works: completion when partially paid by bond proceeds	34	100
cancellation when erroneously or illegally assessed		184
certificate of sale to district for	45	113
computation of amounts of	39a	106
contracts with United States	6, 7	178
deed, collector's: effect	48	117
deed, collector's: form	47	115
delinquency, date of	41	109
delinquent list, publication of	41c–42	111
delinquent prior to April 1, 1933: redemption of lands		182
dissolved district	9	170
districts of 500,000 acres	4	163
due date of	41	109
equalization of	37	104
erroneous, change or credit of	40a	109
evidence of	49	117
extension of time of collection	39d	108
immaterial errors to be disregarded	71	131
improvement district: annual	6, 11	152, 154
installments of	41, 41c	110, 111
lien, attaching of	40	109
method of levy	35	101
misnomer of owner of property immaterial	50	118
neglect or refusal to make	39b	107
omitted lands	39e	108
omitted, levy of	35b	102
payment in installments	41c	111
payment with matured bonds and coupons	52a	119
rate, computation of	60	125
redemption. *See* below, this heading		
sales for delinquent assessments	43	112
special, election on	59	124
special rate, petition for	35c	103
State lands in district		181
suit to collect	41a	110
tolls for water in lieu of	55	122
tolls, unpaid, inclusion of	39b	108
Validating Act of 1925		46
Validating Act of 1931		47
Validating Act of 1933		48
Assessor, duties of	35	101
Assessor's deputies	36	104
Board of Directors. *See* below, directors, board of.		
Bondholder's action against district	113	149
Bonds. *See* Irrigation District Bonds.		
Boundaries: change by exclusion of lands	74	134
Boundaries: change by inclusion of lands	85	138
Bridges across highways maintained by counties		16
Canals and works, lease of	15d	76
Cancellation of assessments erroneously or illegally assessed		184
Certificate of sale for delinquent assessments	45, 46	113, 114
Claims for expenses by officers and employees	54a	121
Claims of materialmen, laborers, etc., for construction work	2	19
Claims, payment of	54	120
Compensation for infringement of rights	65	128
Condemnation of rights of way	56	122
Consolidation of		159
Construction and maintenance by day's labor or force account		17
Construction contractors' bonds	1	18
Construction of district works	15b	75
Contracts—		
directors and officers not to be interested in	58	124
power to enter	15	73
Controversies as to water rights to tax-deeded lands		183
Cooperation with districts in other states		174
Cooperation with United States		175
Deed, collector's, effect of	48	117
Deed, collector's, for unredeemed property, form of	47	117
Defaulted bonds and obligations, payment of	11	35
Directors, board of—		
actions and proceedings by	15b	75
action to determine validity of bonds or assessments	68	129
appointment of	19c	80

IRRIGATION DISTRICTS—Continued.	Section	Page
Directors, board of—Continued.		
as assessment commissioners of improvement district	3	151
bonds: election, issuance, payment, assessments, etc.	89	100
compensation and expenses	56	123
change in number of directors	28	86
condemnation proceedings	16	77
consolidation of districts		160
construction of district works	15b	75
drainage of lands		192
election notices and officers	21	81
election precincts, change of	15d	76
exclusion of lands from district	78	136
financial condition of district, publication of	14a	72
improvement district, order creating	5	151
inclusion of lands, order for	90	140
interest in contracts prohibited	58	124
meetings	14	71
organization meeting	20	81
organization of	13	71
powers and duties	15	72
president and secretary	13	71
qualifications of members	26	84
quorum	14	72
recall of directors	28½	87
reports to State Engineer	54½	121
secretary to compute amount of assessment	39a	106
seepage, regulation of	15a	75
special funds, establishment of	15c	77
vacancy by reason of excluded lands	81	137
water leases	100–105	145–146
water, rules for distribution of	15c	76
Dissolution—		
escheat of funds		173
involuntary		171
voluntary		166
Districts Securities Commission. *See* Districts Securities Commission, California.		
Ditch flowage during high water	63	128
Divisions: reestablishment on exclusion of lands	82	137
Divisions: reestablishment on inclusion of lands	97	144
Drainage by		191
Election on organization—		
ballots	6	69
call and notice	6	68
canvass of votes	9	70
contests	11	70
electors, qualifications of	8	69
officers elected	7	69
results, filing of	10	70
Elections, bond—		
ballots	30c	92
funding and refunding of bonds	32a	96
notice	30d	92
petition for	30c	91
vote required	30c	92
Elections, general—		
ballots	22a	82
conduct of	22	82
directors, change in number of	28	86
nominating petition	22b	82
notice	21	81
officers	19	79
results, record of	25	84
votes, canvass of	23	83
votes, counting of	24	84
voting	22a, 23	82
Elections, Special—		
assessments, special	59	124
bonded indebtedness, reduction of	98–99½	144–145
bonds unsold, destruction of	106–108	146–147
completion of canals and works partially paid for by bond proceeds	34	100
consolidation of districts	5	160
contract with United States	3	177
dissolution, voluntary	2a, 3	167–168
petition for	19b	80

IRRIGATION DISTRICTS—Continued.	Section	Page
Electric power, development of		192
Electric power lines, rights of way for		193
Eminent domain, power of (California Const.)		11
Employees, immunity under unconstitutional laws		30
Engineer's report of construction done by day's labor or force account		17
Exclusion of lands	74	134
Exclusion of lands, order of	80	137
Expenses and charges, assessments for	39	105
Federal reclamation service, contracts with		180
Funds: deposit in county treasury	54	120
Funds: deposit of (California Const.)		42
Funds, establishment of	67	129
Funds of dissolved district, escheat of		173
Funds, special: establishment by board of directors	15c	77
Financial and progress reports of construction to State Engineer	54½	121
Hunting in, prohibited		14
Improvement districts within		149
assessment, levy of	6	152
assessment, notice of	4	151
hearing on formation	5	151
petition to organize	1–2	149–150
survey of proposed assessment	3	150
Validating Act of 1933		156
Validating Act of 1931		157
warrants	7	152
water tolls in lieu of assessments	12	155
Inclusion of lands	85	138
Inclusion of lands: payment of prior assessments	89	140
Inclusion of lands, protest to	91	142
Inclusion of lands, recordation of order for	94	143
Indebtedness—		
apportionment on consolidation of districts	8	161
compromise of		39–42
dissolved district	8	170
dissolution of district, effect of	4	173
exclusion of lands not to release	84	138
part payment of	3	41
power to incur restricted	61	125
revenue bonds not to constitute	6	55
reduction of	98–99½	144–145
relief from	73a	132
Insurance against liability of district or employees	73	131
Investigations and reports of: payment of costs	16	38
Irrigation systems: hours of labor law exception		26
Irrigation works, acquisition of	61b	127
Labor, hours of, on public works		24
Labor, wages of, on public works		22
Lands deeded to State and district, purchase of		185
Lands deeded to State, objection to sale of		189
Lands: exclusion from district	74	134
Lands: inclusion in district	85	138
Lands within district deeded to State for taxes: use by district		188
Liability for operation of motor vehicles by employees		29
Liability insurance		29
Liability insurance for district or employees	73	131
Liens, assessment	40	109
Liens, bond: release from excluded lands	79	136
Liens: release by cancellation of bonds and coupons		50
Materials: production with counties and cities		181
Moneys, unexpended: transfer to general fund	67a	129
Name, change of		149
Obligations of district, relief from	73a	132
Officers—		
compensation fixed by board of directors	57	123
deputies, appointment of		27, 85
election of	19	79
expense claims	54a	121
immunity under unconstitutional laws		30
interest in district contracts prohibited	58	124
nominating petitions	22b	82
president, election of	13	71
recall	28½	87
secretary, appointment of	13	71
tenure of first officers	12	71
vacancies	25	81

IRRIGATION DISTRICTS—Continued.	Section	Page
Operation agreements with counties and cities		181
Offices, consolidation of	27	84
Organization—		
district divisions	5	68
order of supervisors affirming petition	3	67
petition for	2	62
petition, sufficiency of: finding conclusive	4	68
proposal for	1	61
state engineer to furnish information	2a	67
state engineer's report	2	63
Petition for exclusion of lands	75, 77	134–135
Petition for inclusion of lands	86	139
Petition for special rate of assessment	35c	103
Powers, general	15	72
Powers on consolidation of districts	9	161
Property exempt from State, county, and municipal taxation	66	128
Property, title and disposition of	29	89
Redemption of bonds and interest coupons	52	118
Redemption of property—		
dissolution of district	47½	116
partial	47a	116
sold to district prior to April 1, 1933		182
time and method of	47	114
Releases to district property	48a	117
Reports, annual: form prescribed by districts securities commission	10	35
Revenue bonds for waterworks systems		52
Rights and powers of districts	15	72
Rights of way, condemnation of	56	122
Rights of way for power lines		193
Sales of property for delinquent assessments	43	112
Sales of property: misnomer of owner immaterial	50	118
Seepage from irrigation, regulation of	15a	75
Settlements between secretary and collector	51	118
Stock in water corporations: acquisition authorized (California Const.)		13
Supervision by legislature (California Const.)		10
Taxes. *See* above, this heading, assessments.		
Tolls for water in lieu of assessments	55	122
Tolls, unpaid: inclusion in assessment	39b	108
Validating Act of 1933		164
Validating Act of 1931		165
Validating Act of 1929		165
Warrants—		
duplicate, issuance of		48
improvement district	7	152
issuance restricted	61	125
payment and registration	61	126
Water—		
apportionment of	18	78
as public use	17	78
distribution and use	15c	76
leasing	100–105	145–146
rotation of use	62	128
Water conservation district: alternative name for irrigation district	109a	147
Waterworks systems, sale of revenue bonds for		52
Works, award of construction contract for	53	119
LABOR.		
Hours of		24
Wages		22
Wages: retention prohibited		26
LANDS, STATE.		
assessment in irrigation districts		181
purchase by irrigation districts if deeded to State and district for taxes		185
tax deeded lands: objection to sale by taxing agency		189
tax deeded lands: use by irrigation district		188
water rights: settlement of controversies with irrigation districts		183
LEGAL INVESTMENTS, certified irrigation district bonds as	9	35
LEGISLATURE: supervision of irrigation districts (California Const.)		10
LEASES, WATER.		
acceptance of bids	102	146
authority of board of directors	100	145
bond of lessee	105	146
period of	101	146
procedure: notice and call for bids	101	145
rentals	103	146

	Section	Page
LIABILITY.		
insurance for irrigation districts		29
irrigation district officers	73	131
irrigation districts for operation of motor vehicles by employees		29
unconstitutional laws: immunity of district officers and employees		30
MISDEMEANORS. *See* Crimes.		
MORATORIUM: irrigation district sales of property sold prior to April 1, 1933		182
MOTOR VEHICLES: district liability for operation by employees		29
MUNICIPAL CORPORATIONS.		
operation agreements with irrigation districts		181
water distribution system plans and specifications		28
NEGLIGENCE: liability of irrigation district for operation of motor vehicles		29
NOTICES AND PUBLICATIONS. *See also* Actions.		
assessment for improvement district within irrigation district	4	151
assessments, equalization of	37	104
assessments, special rates of	35c	103
assessments, time of payment of	41	110
bond election, district	30d	92
bond sales, district	32	95
bonded indebtedness, election on reduction of	99	144
bonds and coupons, cancellation of	2	50
bonds, funding and refunding, redemption of	32b	97
construction contract bids, call for	53	119
delinquent assessment list	41c–42	111
dissolution, voluntary, of district: election	3	168
election, special, on special assessments	59	124
elections, irrigation district	21	81
exclusion of lands from irrigation district, petition for	76	135
financial condition of irrigation district	14a	72
inclusion of lands in irrigation district	87	139
inclusion of lands in irrigation district, election on	92	142
indebtedness of irrigation district, petition for compromise of	2	40
lands deeded to State and district for taxes, purchase or use by district		186
petition for organization of irrigation district	2	62
warrants, registered: payment	61a	126
water leases by irrigation districts	101	145
OFFICERS. *See also* Irrigation Districts—Officers.		
deputies, appointment of		27, 85
irrigation district: immunity under unconstitutional laws		30
PETITIONS.		
cancellation of district bonds and coupons	1	50
consolidation of irrigation districts	2	160
dissolution of irrigation district, voluntary	2	166
exclusion of lands from irrigation district	75	134
executors and administrators: power to sign	1	61
inclusion of lands in irrigation district	86	139
indebtedness of district, petition for compromise or satisfaction of	1	40
irrigation district organization	2	62
POWER, electrical: development by irrigation district		192
PUBLIC USE.		
irrigation declared to be		11
water: use declared to be (California Const.)		9
water, use of by irrigation district	17	78
PUBLIC WORKS.		
contractor's bond	1	18
hours of labor on		22
irrigation districts: by day's labor or force account		17
laborers: retention of wages prohibited		26
wages of labor on		22
RECONSTRUCTION FINANCE CORPORATION, sale of revenue bonds to	5	54
RECORDING AND FILING.		
bond and coupon cancellation judgment	5	51
bond proceed expenditures of irrigation districts	6	34
cancellation of bonds and coupons, order of	5	51
certificate of sale for delinquent assessments	45, 46	113, 114
exclusion order of lands from irrigation district	80	137
irrigation district, organization election results	10	70
materialmen, laborers, etc., claims	2	19
REDEMPTIONS.		
bonds, irrigation district	52	118
dissolution of district	47½	116

	Section	Page
REDEMPTIONS—Continued.		
partial redemption	47a	116
property sold to irrigation district prior to April 1, 1933		182
property sold to irrigation district, time and method of	47	114
RELEASES TO DISTRICT PROPERTY	48a	117
RESERVOIRS, taking water from prohibited		14
REVENUE BONDS for water works systems		52
RIPARIAN RIGHTS, limited to beneficial use (California Const.)		9
SALES.		
certificate of sale for delinquent assessment	45	113
delinquent assessments	43	112
STATE CONTROLLER. *See* Controller, State.		
STATE ENGINEER. *See* Engineer, State.		
STATE LANDS. *See* Lands, State.		
STATE OF CALIFORNIA: control and regulation of use of water (California Const.)		9
STOCK OF WATER CORPORATIONS: irrigation districts authorized to acquire (California Const.)		13
SUITS. *See* Actions.		
SUPERVISORS, County Boards of.		
Elections on organization of irrigation district: duties		68
Irrigation district directors, appointment of	19c	80
Irrigation district divisions: establishment	5	68
Organization petition for irrigation district	2, 3	62, 67
SURVEYOR GENERAL: assessment of State lands in irrigation districts, notice of		182
TAXATION.		
district property exempt	66	128
tax deeded lands: controversies as to water rights between State and irrigation districts		183
tax deeds, effect of	48	117
tax deeds, form of	47	115
TOLLS.		
improvement district within irrigation district: water tolls in lieu of assessments	12	155
water tolls in lieu of district assessments	55	122
UNITED STATES.		
consent to dissolution of irrigation district under contract	1	166
cooperation of districts with		175
district agreements with	15	73
district contracts with reclamation service		180
lands: inclusion in irrigation district	90	141
VALIDATING ACTS.		
Improvement districts within irrigation districts—		
Act of 1933		156
Act of 1931		157
Irrigation district bonds—		
Act of 1933		47
Act of 1931		46
Act of 1925		45
Irrigation districts—		
Act of 1933		164
Act of 1931		165
Act of 1929		165
WAGES OF labor on public works		22
WARRANTS.		
improvement districts within irrigation districts	7	152
issuance by irrigation districts restricted	61	125
limitation of actions on	61a	126
payment and registration	61a	126
WATER.		
commissioners: duties and personnel	62	128
conservation district: name in lieu of irrigation district	109a	147
controversies between state and district as to tax deeded lands		183
leases of by irrigation districts	100–105	145–146
rights: compensation for infringement by irrigation district	65	128
riparian rights limited to beneficial use (California Const.)		9
Use, a public use (California Const.)		9
Waterworks systems, sale of revenue bonds for		52
WATER COMMISSIONERS, duties and personnel	62	128
WATER CONSERVATION DISTRICT: name used in place of irrigation district	109a	147
WATERWORKS SYSTEMS.		
as security for revenue bonds	7	55
irrigation districts: sale of revenue bonds		52

PUBLICATIONS

DIVISION OF WATER RESOURCES

PUBLICATIONS OF THE

DIVISION OF WATER RESOURCES

DEPARTMENT OF PUBLIC WORKS

STATE OF CALIFORNIA

When the Department of Public Works was created in July, 1921, the State Water Commission was succeeded by the Division of Water Rights, and the Department of Engineering was succeeded by the Division of Engineering and Irrigation in all duties except those pertaining to State Architect. Both the Division of Water Rights and the Division of Engineering and Irrigation functioned until August, 1929, when they were consolidated to form the Division of Water Resources.

STATE WATER COMMISSION

First Report, State Water Commission, March 24 to November 1, 1912.

Second Report, State Water Commission, November 1, 1912 to April 1, 1914.

*Biennial Report, State Water Commission, March 1, 1915, to December 1, 1916.

Biennial Report, State Water Commission, December 1, 1916, to September 1, 1918.

Biennial Report, State Water Commission, September 1, 1918, to September 1, 1920.

DIVISION OF WATER RIGHTS

*Bulletin No. 1—Hydrographic Investigation of San Joaquin River, 1920–1923.

*Bulletin No. 2—Kings River Investigation, Water Master's Reports, 1918–1923.

*Bulletin No. 3—Proceedings First Sacramento-San Joaquin River Problems Conference, 1924.

*Bulletin No. 4—Proceedings Second Sacramento-San Joaquin River Problems Conference, and Water Supervisor's Report, 1924.

*Bulletin No. 5—San Gabriel Investigation—Basic Data, 1923–1926.

Bulletin No. 6—San Gabriel Investigation—Basic Data, 1926–1928.

Bulletin No. 7—San Gabriel Investigation—Analysis and Conclusions, 1929.

*Biennial Report, Division of Water Rights, 1920–1922.

*Biennial Report, Division of Water Rights, 1922–1924.

Biennial Report, Division of Water Rights, 1924–1926.

Biennial Report, Division of Water Rights, 1926–1928.

DEPARTMENT OF ENGINEERING

*Bulletin No. 1—Cooperative Irrigation Investigations in California, 1912–1914.

*Bulletin No. 2—Irrigation Districts in California, 1887–1915.

Bulletin No. 3—Investigations of Economic Duty of Water for Alfalfa in Sacramento Valley, California, 1915.

*Bulletin No. 4—Preliminary Report on Conservation and Control of Flood Waters in Coachella Valley, California, 1917.

*Bulletin No. 5—Report on the Utilization of Mojave River for Irrigation in Victor Valley, California, 1918.

*Bulletin No. 6—California Irrigation District Laws, 1919 (now obsolete).

Bulletin No. 7—Use of water from Kings River, California, 1918.

*Bulletin No. 8—Flood Problems of the Calaveras River, 1919.

Bulletin No. 9—Water Resources of Kern River and Adjacent Streams and Their Utilization, 1920.

*Biennial Report, Department of Engineering, 1907–1908.

*Biennial Report, Department of Engineering, 1908–1910.

*Biennial Report, Department of Engineering, 1910–1912.

*Biennial Report, Department of Engineering, 1912–1914.

*Biennial Report, Department of Engineering, 1914–1916.

*Biennial Report, Department of Engineering, 1916–1918.

*Biennial Report, Department of Engineering, 1918–1920.

* Reports and Bulletins out of print. These may be borrowed by your local library from the California State Library at Sacramento, California.

DIVISION OF WATER RESOURCES

Including Reports of the Former Division of Engineering and Irrigation

*Bulletin No. 1—California Irrigation District Laws, 1921 (now obsolete).
*Bulletin No. 2—Formation of Irrigation Districts, Issuance of Bonds, etc., 1922
Bulletin No. 3—Water Resources of Tulare County and Their Utilization, 1922.
Bulletin No. 4—Water Resources of California, 1923.
Bulletin No. 5—Flow in California Streams, 1923.
Bulletin No. 6—Irrigation Requirements of California Lands, 1923.
*Bulletin No. 7—California Irrigation District Laws, 1923 (now obsolete).
*Bulletin No. 8—Cost of Water to Irrigators in California, 1925.
Bulletin No. 9—Supplemental Report on Water Resources of California, 1925.
*Bulletin No. 10—California Irrigation District Laws, 1925 (now obsolete).
Bulletin No. 11—Ground Water Resources of Southern San Joaquin Valley, 1927.
Bulletin No. 12—Summary Report on the Water Resources of California and a Coordinated Plan for Their Development, 1927.
Bulletin No. 13—The Development of the Upper Sacramento River, containing U. S. R. S. Cooperative Report on Iron Canyon Project, 1927.
Bulletin No. 14—The Control of Floods by Reservoirs, 1928.
*Bulletin No. 18—California Irrigation District Laws, 1927 (now obsolete).
*Bulletin No. 18-A—California Irrigation District Laws, 1929 Revision (now obsolete).
Bulletin No. 18-B—California Irrigation District Laws, 1931 Revision (now obsolete).
Bulletin No. 18-C—California Irrigation District Laws, 1933 Revision.
Bulletin No. 19—Santa Ana Investigation, Flood Control and Conservation (with packet of maps), 1928.
Bulletin No. 20—Kennett Reservoir Development, an Analysis of Methods and Extent of Financing by Electric Power Revenue, 1929.
Bulletin No. 21—Irrigation Districts in California, 1929.
Bulletin No. 21-A—Report on Irrigation Districts in California for the Year 1929.
Bulletin No. 21-B—Report on Irrigation Districts in California for the Year 1930.
Bulletin No. 21-C—Report on Irrigation Districts in California for the Year 1931. (Mimeographed.)
Bulletin No. 21-D—Report on Irrigation Districts in California for the Year 1932. (Mimeographed.)
Bulletin No. 22—Report on Salt Water Barrier (two volumes), 1929.
Bulletin No. 23—Report of Sacramento-San Joaquin Water Supervisor, 1924–1928.
Bulletin No. 24—A Proposed Major Development on American River, 1929.
Bulletin No. 25—Report to Legislature of 1931 on State Water Plan, 1930.
Bulletin No. 26—Sacramento River Basin, 1931.
Bulletin No. 27—Variation and Control of Salinity in Sacramento-San Joaquin Delta and Upper San Francisco Bay, 1931.
Bulletin No. 28—Economic Aspects of a Salt Water Barrier Below Confluence of Sacramento and San Joaquin Rivers, 1931.
Bulletin No. 28-A—Industrial Survey of Upper San Francisco Bay Area, 1930.
Bulletin No. 31—Santa Ana River Basin, 1930.
Bulletin No. 32—South Coastal Basin, a Cooperative Symposium, 1930.
Bulletin No. 33—Rainfall Penetration and Consumptive Use of Water in Santa Ana River Valley and Coastal Plain, 1930.
Bulletin No. 34—Permissible Annual Charges for Irrigation Water in Upper San Joaquin Valley, 1930.
Bulletin No. 35—Permissible Economic Rate of Irrigation Development in California, 1930.
Bulletin No. 36—Cost of Irrigation Water in California, 1930.
Bulletin No. 37—Financial and General Data Pertaining to Irrigation, Reclamation and Other Public Districts in California, 1930.
Bulletin No. 38—Report of Kings River Water Master for the Period 1918–1930.
Bulletin No. 39—South Coastal Basin Investigation, Records of Ground Water Levels at Wells, 1932.
Bulletin No. 40—South Coastal Basin Investigation, Quality of Irrigation Waters, 1933.
Bulletin No. 41—Pit River Investigation, 1933.
Bulletin No. 42—Santa Clara Investigation, 1933.

* Reports and Bulletins out of print. These may be borrowed by your local library from the California State Library at Sacramento, California.

Biennial Report, Division of Engineering and Irrigation, 1920–1922.

Biennial Report, Division of Engineering and Irrigation, 1922–1924.

Biennial Report, Division of Engineering and Irrigation, 1924–1926.

Biennial Report, Division of Engineering and Irrigation, 1926–1928.

PAMPHLETS

Act Governing Supervision of Dams in California, with Revised Rules and Regulations, 1933.

Water Commission Act with Amendments Thereto, 1933.

Rules, Regulations and Information Pertaining to Appropriation of Water in California, 1933.

Rules and Regulations Governing the Determination of Rights to Use of Water in Accordance with the Water Commission Act, 1925.

Tables of Discharge for Parshall Measuring Flumes, 1928.

General Plans, Specifications and Bills of Material for Six and Nine Inch Parshall Measuring Flumes, 1930.

COOPERATIVE AND MISCELLANEOUS REPORTS

*Report of the Conservation Commission of California, 1912.

*Irrigation Resources of California and Their Utilization (Bul. 254, Office of Exp. U. S. D. A.) 1913.

*Report, State Water Problems Conference, November 25, 1916.

*Report on Pit River Basin, April, 1915.

*Report on Lower Pit River Project, July, 1915.

*Report on Iron Canyon Project, 1914.

*Report on Iron Canyon Project, California, May, 1920.

*Sacramento Flood Control Project (Revised Plans), 1925.

Report of Commission Appointed to Investigate Causes Leading to the Failure of St. Francis Dam, 1928.

Report of the California Joint Federal-State Water Resources Commission, 1930.

Conclusions and Recommendations of the Report of the California Irrigation and Reclamation Financing and Refinancing Commission, 1930.

*Report of California Water Resources Commission to the Governor of California on State Water Plan, 1932.

*Booklet of Information on California and the State Water Plan Prepared for United States House of Representatives' Subcommittee on Appropriations, 1931.

*Bulletin on Great Central Valley Project of State Water Plan of California Prepared for United States Senate Committee on Irrigation and Reclamation, 1932.

---

* Reports and Bulletins out of print. These may be borrowed by your local library from the California State Library at Sacramento, California.

5134 1-34 1500

025

THIS BOOK IS DUE ON THE LAST DATE STAMPED BELOW

AN INITIAL FINE OF 25 CENTS

WILL BE ASSESSED FOR FAILURE TO RETURN THIS BOOK ON THE DATE DUE. THE PENALTY WILL INCREASE TO 50 CENTS ON THE FOURTH DAY AND TO $1.00 ON THE SEVENTH DAY OVERDUE.

NOV 4 1986

RECEIVED

OCT 28 1986

PHYS SCI LIBRARY

Book Slip—25m-7,'53(A8998s4)458

111585 TC824
Calif. Division of eng- C2
ineering and irrigation. A2
Calif.
TC824
C2
A2
no. 18-18C
PHYSICAL
SCIENCES
LIBRARY
LIBRARY
UNIVERSITY OF CALIFORNIA
DAVIS
111585
002 0025